

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

GEORGE CHESNEY, ET AL.)	
)	
Plaintiffs,)	
v.)	No: 3:09-CV-09
)	(VARLAN/GUYTON)
TENNESSEE VALLEY AUTHORITY; ET AL.)	
)	
Defendants.)	

**APPENDIX I OF II
ATTACHMENTS TO
TENNESSEE VALLEY AUTHORITY’S OPPOSITION TO *CHESNEY* PLAINTIFFS’
MOTION FOR CLASS CERTIFICATION**

Attachment	Description
AI-1	Deposition of Debra Burnum, Case No. 3:09-cv-09, September 9, 2010
AI-218	Deposition of George Chesney, Case No. 3:09-cv-09, August 20, 2010
AI-509	Deposition of Patricia Cordell, Case No. 3:09-cv-09, August 19, 2010
AI-745	Deposition of Jewel Francis, Case No. 3:09-cv-09, September 3, 2010
AI-935	Deposition of William Gaddis, Case No. 3:09-cv-09, September 8, 2010
AI-1145	Deposition of Virgil “Lee” Maines, Case No. 3:09-cv-09, August 27, 2010
AI-1369	Deposition of Barbara Phillips, Case No. 3:09-cv-09, September 2, 2010
AI-1548	Deposition of Donald W. Simon, Case No. 3:09-cv-09, August 18, 2010
AI-1830	Deposition of James Worley, Case No. 3:09-cv-09, August 26, 2010

In The Matter Of:
George Chesney, et al. v.
Tennessee Valley Authority, et al.

Debra Burnum
September 9, 2010

Vowell & Jennings, Inc.
214 Second Avenue North
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Nashville, Tennessee 37201
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Original File 090910.TXT
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

GEORGE CHESNEY; VIRGIL)
MAINES; WILLIAM GADDIS;)
DEBRA BURNUM; PATRICIA)
CORDELL; JAMES G.)
WORLEY; JEWEL H.)
FRANCIS; DONALD W.)
SIMON; and BARBARA M.)
PHILLIPS,)
)
Plaintiffs,)
)
vs.) CASE NO. 3:09-CV-09
)
TENNESSEE VALLEY)
AUTHORITY; GEOSYNTEC)
CONSULTANTS, INC.; and)
WORLEYPARSONS)
CORPORATION,)
)
Defendants.)
_____)

DEPOSITION OF:

DEBRA BURNUM

Taken on Behalf of the Defendants

September 9, 2010

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1 The deposition of DEBRA BURNUM,
2 taken on behalf of the Defendants, on the 9th
3 day of September, 2010, at 8:38 A.M., in the Law
4 Offices of Cooley, Cooley & McFarland, 1021
5 Waterford Place, Kingston, Tennessee, for all
6 purposes under the Tennessee Rules of Civil
7 Procedure.

8 The formalities as to notice,
9 caption, certificate, et cetera, are waived.
10 All objections, except as to the form of the
11 questions, are reserved to the hearing.

12 It is agreed that Katherine Gale
13 being a Notary Public and Court Reporter for the
14 State of Tennessee, may swear the witness and
15 that the reading and signing of the completed
16 deposition by the witness are reserved.

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22
23 DEBRA BURNUM
24 was called as a witness, and after having been
25 first duly sworn, testified as follows:

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E X A M I N A T I O N

BY MR. SHERK:

Q Please state your name for the record.

A Debra Burnum.

Q Hi, Ms. Burnum. My name is John Sherk.
I'm a lawyer with Shook, Hardy & Bacon, and I'm
representing the Tennessee Valley Authority in
this case. I'll be asking you most of the
questions today. And let me begin by asking
this.

Have you ever had your deposition
taken before?

A No.

Q Let me give you a few of the ground rules.

To begin with, we have our court
reporter, Katherine, who's taking down
everything that we say, so you'll need to give a
verbal response to my questions.

Okay?

A Okay.

Q If you don't understand my question,
please just let me know, and I'd be happy to
rephrase it for you.

All right?

A Okay.

1 Q What is your current address?
2 A 461 West Rockwood Ferry Road, Ten Mile.
3 Q Are you feeling fine such that you can
4 give full and accurate testimony today?
5 A Yes.
6 Q No memory problems or anything like that?
7 A No.
8 Q Are you taking any medications which would
9 impair your ability to give full and accurate
10 testimony?
11 A No.
12 Q Okay. One other rule of the road would be
13 that if we get to talking, please make sure to
14 let me complete my question before you answer.
15 Okay?
16 A Okay.
17 Q It's different -- it's difficult for
18 Katherine to take things down if we're talking
19 over each other.
20 Ms. Burnum, what did you do to
21 prepare for this deposition today?
22 A I met with the attorneys yesterday.
23 Q Who was there?
24 A Brantley and Ken and Beth Alexander for a
25 little while.

1 Q How long did the meeting last?

2 A About two hours.

3 Q Did you review any documents in
4 preparation for today's deposition?

5 A Yes.

6 Q What documents did you review?

7 A The Complaint.

8 Q Was that the first time you had seen the
9 Complaint?

10 A Yes.

11 Q Any other documents that you reviewed in
12 preparation for today's deposition?

13 A I looked at some maps.

14 Q Okay. Did you happen to review your
15 discovery responses?

16 A Not really. I mean, they told me a few
17 things that you would be asking.

18 Q Okay. There were written questions that
19 we posed to you through your counsel and some
20 answers were supplied. Did you have a chance to
21 go through those answers?

22 A A few of them.

23 Q Okay. Did you talk with friends or family
24 members in preparation for today's deposition?

25 A Not other than just that I was having it

1 today.

2 Q Your husband's name is Johnny Burnum?

3 A Yes.

4 Q Did he give you any advice.

5 MS. FRY: Object to the extent that
6 it's spousal. It's communications between the
7 spouses.

8 MR. SHERK: Okay. Spousal immunity.

9 MS. FRY: Uh-huh. Spousal privilege.

10 BY MR. SHERK:

11 Q Other than conversations with your
12 husband, anybody else that imparted any advice
13 to you about today's deposition?

14 A No.

15 Q Friends or neighbors?

16 A No.

17 Q Did you talk to a pastor or minister about
18 today's deposition?

19 A No.

20 Q Have you spoken to your pastor or minister
21 about this lawsuit in general?

22 A No.

23 Q Have you spoken to a pastor or minister
24 about the ash slide back in December of 2008?

25 A No.

1 Q Okay. Are you a member of a church in the
2 area?

3 A Yes.

4 Q What church is that?

5 A Big Emory Baptist Church.

6 MR. HOWELL: I'm sorry, what was the
7 name of that again?

8 THE WITNESS: Big Emory Baptist
9 Church.

10 BY MR. SHERK:

11 Q Where is that church located?

12 A In Harriman.

13 Q Have you talked to a psychiatrist or
14 psychologist about today's deposition?

15 A No.

16 Q Have you talked to a psychiatrist of
17 psychologist about this lawsuit in general?

18 A No.

19 Q Have you talked to a psychologist or
20 psychiatrist about the ash slide?

21 A No.

22 Q Have you kept a diary or a log about your
23 experiences pertaining to the ash slide?

24 A No.

25 Q Have you written any editorials or

1 articles about your experiences pertaining to
2 the ash slide?

3 A No.

4 Q Do you have your own Internet account at
5 home?

6 A Yes.

7 Q How about at work?

8 A I'm not working right now.

9 Q Do you use the Internet to keep up with
10 events in connection with this lawsuit?

11 A Yes.

12 Q How about to keep up with events
13 surrounding the ash slide and its cleanup?

14 A Yes.

15 Q Do you belong to an e-mail group that
16 exchanges information about the lawsuit?

17 A No.

18 Q Do you belong to an e-mail group that
19 exchanges information about TVA or the ash
20 slide?

21 A No.

22 Q Who is it that you communicate with by
23 Internet regarding this lawsuit?

24 A I just look at news articles, mainly.

25 Q News articles on the Internet?

1 A Yes.

2 Q Did you receive the paper at home?

3 A Yes.

4 Q Which paper is that?

5 A Roane County News and the Knoxville News
6 Sentinel.

7 Q What are the -- are the Internet sites
8 that you look at sites of the newspapers or
9 something else?

10 A Mainly the newspaper sites.

11 Q Okay. Are there websites or blogs that
12 you visit that pertain to the ash spill or the
13 cleanup efforts?

14 A I have looked at some.

15 Q What would those be?

16 A I don't know right off.

17 Q Are they local or national in nature?

18 A Both.

19 Q How frequently do you view those sites?

20 A Occasionally. Maybe once a week or so.

21 Q Do you ever visit the TVA website?

22 A I have.

23 Q Have you found that to be a useful source
24 of information?

25 A Somewhat, yes.

1 Q In what respects have you found it to be
2 worthwhile to visit?

3 A Just getting updates on the new types of
4 storage of the ash and things like that.

5 Q Any particular features of the website
6 that you don't prefer?

7 A No.

8 Q Have you printed anything from the
9 websites and e-mail exchanges that you've had
10 concerning TVA's spill?

11 A No.

12 Q Have you saved those communications on
13 your computer?

14 A No.

15 Q Have you ever posted information on any
16 blog or website regarding your experiences
17 pertaining to the spill?

18 A No.

19 Q When you e-mail other people about the
20 spill or the cleanup efforts, who are they?

21 A I haven't e-mailed anyone. I've just
22 talked.

23 Q On the phone?

24 A Yeah.

25 Q Oh, okay. Who do you speak with on the

1 phone about the spill or the cleanup?

2 A Just family, friends, people in the
3 community.

4 Q Are there particular folks in the
5 community that you have had the opportunity to
6 speak with with some regularity about the spill?

7 A Yes.

8 Q Who are they?

9 A Neighbors.

10 Q What are their names?

11 A Loretta and Larry McKinney.

12 Q I'm sorry?

13 A Loretta and Larry McKinney.

14 Q Do they live close by?

15 A Yes.

16 Q Anybody else?

17 A The other neighbors are Rebecca Moore.

18 Q Besides them?

19 A No.

20 Q What is your understanding as to what
21 kinds of materials you should be preserving
22 because you're involved in this lawsuit?

23 A Communications between myself and TVA.

24 Q And have you kept such communications?

25 A Most of it has been over the phone, but

1 there's been -- regarding cleanup around my
2 property, there's been a few little e-mails.

3 Q Right. And I saw those in the materials
4 that you produced. Is that the only e-mail
5 communication that you had with TVA?

6 A Yes.

7 Q That you currently possess?

8 A Yes.

9 Q Are there other communications that
10 pertain to this lawsuit that you have had with
11 others besides TVA that you have retained?

12 A Such as who?

13 Q E-mail communications with friends or
14 neighbors, members of the community.

15 A No, not through e-mail.

16 Q Do you feel that since you have become
17 involved in this lawsuit there have been
18 materials that you have received pertaining to
19 this lawsuit that have not been retained by you?

20 A No.

21 Q When did you hire your lawyers in this
22 case?

23 A 2009.

24 Q And what firm was retained?

25 A Lieff, Cabraser.

1 Q How did you come in contact with the
2 Lieff, Cabraser firm?
3 A They were recommended to me by someone.
4 Q Who was that?
5 A Matt Caldwell.
6 Q Is Mr. Caldwell a local lawyer?
7 A He is a real estate developer, and he owns
8 a big tract of property that connects to mine.
9 Q Did Mr. Caldwell retain Lieff, Cabraser
10 prior to you retaining that firm?
11 A Yes.
12 Q Did you interview or come in contact with
13 other firms besides Lieff, Cabraser?
14 A No.
15 Q That was the only firm that you took into
16 consideration?
17 A Well, I also researched the other one with
18 Erin Brockovich, but I decided to go with Lieff,
19 Cabraser.
20 Q Did you research the Lieff, Cabraser firm
21 on the Internet?
22 A I looked at their website.
23 Q Did you mention that you retained the
24 Lieff, Cabraser firm in 2009?
25 A Yes.

1 Q What month in 2009 would you have retained
2 Lieff, Cabraser?

3 A I don't know what month it was.

4 Q Within the first six months of the year,
5 do you think?

6 A It seems like it was around the middle of
7 the year.

8 Q June, July, something like that?

9 A Yes.

10 Q Was your husband involved with you in the
11 decision as to who you would retain as your
12 counsel pertaining to the ash spill?

13 A Yes.

14 Q Was it your decision or his decision to
15 hire the Lieff, Cabraser firm?

16 A Both.

17 Q Have there been any e-mails regarding the
18 ash spill or its cleanup that have been deleted
19 by you since you retained counsel in mid 2009.

20 MS. FRY: Object. Asked and
21 answered.

22 BY MR. SHERK:

23 Q You can answer.

24 A No.

25 Q Have you saved any materials such as air

1 filters from your heating and air conditioning
2 system since the ash spill?

3 A No.

4 Q For example, have you swiped surfaces with
5 wipes and retained them?

6 A No.

7 Q Have you taken any samples of soil since
8 the ash spill and saved them?

9 A No, I haven't.

10 Q Have you taken any water samples since the
11 ash spill and saved them?

12 A No.

13 Q Have you turned over any materials which
14 you believe may have contained fly ash to your
15 counsel since the -- since retaining counsel?

16 A No.

17 Q Let's change gears now.

18 Okay?

19 A Okay.

20 Q How long have you been married to Johnny
21 Burnum?

22 A 16 years.

23 Q What was the date of your wedding?

24 A January 15, 1994.

25 Q Is that your only marriage?

1 A Yes.

2 Q Do you have children?

3 A Yes.

4 Q What are their names and ages?

5 A Brady is 14, and Brendan is 8.

6 Q Two boys, then?

7 A Yes.

8 Q Do both of your children live with you?

9 A Yes.

10 Q What schools do they attend?

11 A Brady attends Midway High School.

12 Q Where is that located?

13 A In Kingston, Tennessee.

14 Q How about Brendan?

15 A He attends Midway Elementary.

16 Q Also in Kingston?

17 A Yes.

18 Q Does elementary school go all the way

19 through 8th grade?

20 A No, through 5th.

21 Q And is he in --

22 A 3rd.

23 Q 3rd grade.

24 Is Brendan an 8th grader?

25 A Brady is.

1 Q Brady, sorry.

2 A 9th grader.

3 Q 9th, okay. I've got kids right in this
4 range, so you can usually figure it out agewise.

5 Have you, your husband, and your
6 children all resided in your house since the ash
7 slide?

8 A Yes.

9 Q Has anyone else stayed with you for a
10 period of one week or longer since the ash
11 slide?

12 A No.

13 Q No relatives?

14 A No.

15 Q No foster children?

16 A No.

17 Q No stepchildren?

18 A No.

19 Q No foreign exchange students?

20 A No.

21 Q Are your parents still living?

22 A Yes.

23 Q What are their names and ages?

24 A Larry McKinney, 70; Loretta McKinney, 69.

25 Q Do they live around here?

1 A Yes.

2 Q Where do they reside?

3 A They live very close to me at 459 West

4 Rockwood Ferry Road.

5 Q I'm sorry, 459?

6 A West Rockwood Ferry Road.

7 Q You are at 461 West Rockwood Ferry Road?

8 A Yes. They moved there about four years

9 ago.

10 Q Are they literally next-door neighbors?

11 A About as close as you can get, yes.

12 Q Are both your parents in good health?

13 A Not exactly.

14 Q Does one of your parents have a medical

15 problem or issue?

16 A My father was diagnosed with cancer this

17 year.

18 Q What sort of cancer?

19 A Prostate cancer.

20 Q Is his prognosis good?

21 A He was treated for it in June, and as of

22 right now, they think it's good. But they said

23 you have to wait over time to see.

24 Q Are your parents frequent visitors to your

25 house?

1 A Yes.

2 Q Are they involved with your children?

3 A Yes.

4 Q You grew up in this area; is that correct?

5 A Yes.

6 Q Prior to living at 459 West Rockwood Ferry

7 Road, where did your parents live?

8 A On Woods Chapel Road in Harriman.

9 Q And did they live there for quite some

10 time?

11 A Yes.

12 Q How long were they at that residence?

13 A Probably about 30 years.

14 Q Did they move to 459 West Rockwood Ferry

15 Road to be closer to you and your family?

16 A That's one of the reasons. They also

17 wanted to live near the lake.

18 Q Do you have siblings?

19 A Yes.

20 Q What are their names and ages?

21 A Ronnie McKinney, and he would be 45. And

22 Darrell McKinney, 43.

23 Q And you are 38?

24 A Yes.

25 Q So there are three of you, two boys and a

1 girl?

2 A Yes.

3 Q Do your brothers live in the area?

4 A They live in Cumberland County.

5 Q Cumberland County?

6 A Yes.

7 Q How far is that from here?

8 A It's about an hour's drive.

9 Q Are they frequent visitors to your house?

10 A Not frequent, occasional.

11 Q A few times a year?

12 A Yes.

13 Q Do they have families of their own?

14 A Yes.

15 Q Where did you graduate from high school?

16 A Harriman High School.

17 Q In what year?

18 A 1990.

19 Q Did you go to grade school in the area?

20 A Yes.

21 Q What grade school did you attend?

22 A It was Central Elementary in Harriman.

23 Q Was there a middle school?

24 A Yes.

25 Q What middle school did you go to?

1 A It was Cumberland Middle School. I think
2 now it's called Harriman Middle School, but at
3 the time it was Cumberland Middle School.

4 Q After graduating from high school in 1990
5 did you go to college?

6 A Yes.

7 Q Where did you attend college?

8 A Roane State Community College.

9 Q Did you stay at home when you were
10 attending Roane State Community College?

11 A Yes.

12 Q What degree did you receive from Roane
13 State?

14 A Radiologic technology, associate's degree.

15 Q Is that a four-year degree?

16 A It's two-year.

17 Q What does a radiologic technician do?

18 A Take x-rays mainly.

19 Q Just, for example, a standard chest x-ray?

20 A Yeah, all types of x-rays and some tests,
21 also.

22 Q Do you do low-dose computed Tomography
23 tests?

24 A I did, yes.

25 Q LD-CT scans?

1 A Uh-huh.

2 Q And what other tests did you do?

3 A When I worked as that, it was like barium
4 enemas and kidney scans for kidney stones,
5 several different types.

6 Q After receiving your degree in radiologic
7 technology from Roane State, have you ever --
8 have you had any subsequent training --

9 A Yes.

10 Q -- or course work?

11 What would that training or course
12 work be in?

13 A Nuclear medicine technology.

14 Q What is nuclear medicine technology?

15 A It is where you inject radioactive
16 isotopes into a patient and run scans.

17 Q Did you receive a certification or degree
18 of any kind for this training?

19 A Yes.

20 Q Was that sponsored by the hospital where
21 you worked?

22 A No.

23 Q That was something you had to do on your
24 own?

25 A Yes.

1 Q Okay. Besides that training, have you had
2 any other training since graduating from
3 college?

4 A No.

5 Q When you were going to Roane State and
6 getting your degree, did you have course work in
7 biology?

8 A Yes.

9 Q Chemistry?

10 A Yes.

11 Q How about toxicology?

12 A No.

13 Q Epidemiology?

14 A No.

15 Q Did you ever have any courses in the
16 environmental sciences?

17 A Such as?

18 Q Study of soils, water, that kind of thing.

19 A No.

20 Q I believe you said you are not presently
21 employed?

22 A Yes.

23 Q What was your last place of employment?

24 A It's a place called Worthington Medical
25 Center.

1 Q What did you do there?
2 A I basically ran their x-ray department.
3 Q You ran it?
4 A Yeah.
5 Q What were your dates of employment at
6 Worthington Medical Center?
7 A 1994 through 1995.
8 Q Did you personally give x-rays to
9 patients?
10 A Yes.
11 Q Did you supervise others that gave x-rays
12 to patients?
13 A No.
14 Q Were you a one-person department?
15 A No, there was three of us.
16 Q Were you in charge of the other two folks
17 that worked with you at Worthington?
18 A We were never there at the same time.
19 Q So you were all on the same standing?
20 A Basically, yeah.
21 Q Prior to Worthington Medical Center, where
22 did you work?
23 A Roane Medical Center.
24 Q What were your dates of employment there?
25 A Let's see. I think it was January of '93

1 until, probably, August of '94.

2 Q What did you do at Roane Medical Center?

3 A I worked in the x-ray department and CT
4 department.

5 Q Where did you work before you worked at
6 Roane Medical Center?

7 A I think the place before that would have
8 to be Wal-Mart.

9 Q Okay. What was the year of your
10 graduation from Roane State Community College?

11 A 1993.

12 Q After you graduated from Roane State
13 Community College, did you begin to work at the
14 Roane County Medical Center?

15 A I actually started working there while I
16 was still in school.

17 Q Okay. So Wal-Mart was a job that you held
18 while you were in school?

19 A Yes.

20 Q And it sounds as if you were able to leave
21 that job at Wal-Mart and start at the Roane
22 Medical Center while you were still in college?

23 A Yes.

24 Q Why is it that you are no longer working
25 at the Worthington Medical Center?

1 A I made a decision to start raising a
2 family and stay home with them.

3 Q When you were on the job as an x-ray
4 technician, did you have to wear protective
5 gear?

6 A Yes.

7 Q What kind of gear would you wear when you
8 were at work?

9 A A lead apron.

10 Q Any headgear of any sort?

11 A No.

12 Q How about special gloves?

13 A Not usually, no, not on a regular basis.

14 Q Was the radiation from CT scans of a
15 higher level than radiation from an x-ray?

16 A Yes.

17 Q Were there precautions that you would take
18 as a CT scan technician that you wouldn't take
19 for regular x-rays?

20 A They're basically the same.

21 Q Were you ever concerned about being
22 exposed to radiation while you worked as a
23 technician at the hospitals where you were
24 employed?

25 A Yes.

1 Q Was exposure to radiation one of the
2 reasons why you decided to leave that -- your
3 employment at the hospital?

4 A Yes.

5 Q Have there been studies or articles that
6 you've read lately about radiation exposure that
7 caused you some concern?

8 A Yes.

9 Q Okay. What would those have been?

10 A I've read articles about the cumulative
11 doses that patients have been getting and that
12 it's not monitored regularly and things like
13 that.

14 Q And as a -- as a technician giving x-ray
15 and CT scans, did you feel that you might
16 ultimately be exposed to an excessive amount of
17 radiation?

18 A Yes.

19 Q Okay. Do you believe that in your tenure
20 as a technician giving x-rays and CT scans,
21 you've already been exposed to radiation?

22 A I'm sure I have, a small amount, yes.

23 Q Are you concerned that the exposure to
24 radiation that you received while working at the
25 hospitals has placed you in any kind of

1 increased risk of future disease?

2 A No, I don't think so.

3 Q Do you ever plan to return to your work as
4 an x-ray technician once your children get
5 older?

6 A I've been keeping up my continuing
7 education. It's something I have to do every
8 two years. I've been doing that for -- in case
9 I do decide to go back.

10 Q Your boys, Brady and Brendan, are they
11 your children?

12 A Yes.

13 Q When you were working as an x-ray
14 technician, did you ever have an on-the-job
15 injury?

16 A No.

17 Q Never were sick because of an exposure at
18 work?

19 A No.

20 Q Okay. Did you ever file a Workers'
21 Compensation claim?

22 A No.

23 Q Is it the case that the job at Wal-Mart,
24 and then the job as -- the jobs as an x-ray
25 technician are essentially the only employment

1 that you've had?

2 A I mean, other than like in high school and
3 stuff, yes.

4 Q Okay. Other than being exposed to
5 radiation at work, have you -- do you believe
6 you've been exposed to other hazardous
7 substances?

8 A At work?

9 Q Yes.

10 A I'm sure I was exposed to probably
11 biohazardous materials.

12 Q When you were at the hospital?

13 A Yeah.

14 Q Did the hospital have warnings about
15 biohazardous materials that were posted?

16 A Yes.

17 Q Did you and other people who worked at the
18 hospital take precautions with regard to being
19 exposed to biohazardous materials?

20 A Yes.

21 Q Okay. Do you believe you've ever been
22 exposed to asbestos at work?

23 A No.

24 Q How about silica?

25 A No.

1 Q Beryllium?

2 A No.

3 Q Mercury?

4 A No.

5 Q Magnesium?

6 A No.

7 Q Selenium?

8 A No.

9 Q Cobalt?

10 A Yes.

11 Q How might you have been exposed to cobalt

12 at work?

13 A We used cobalt in nuclear medicine.

14 Q How would you have handled cobalt when you

15 worked at the hospital?

16 A It -- they usually had like a leaded

17 enclosure that you kind of stuck your hands

18 behind and dealt with it like that.

19 Q What would you do with the cobalt as a

20 part of the processing of your job?

21 A In nuclear medicine we used cobalt to run

22 tests on our machines.

23 Q What sort of tests were those?

24 A Just calibration tests.

25 Q Now, do you believe you've been exposed to

1 vanadium while at work?

2 A No.

3 Q How about arsenic?

4 A No.

5 Q You mentioned that you would wear a lead

6 smock while at work?

7 A Yes.

8 Q Did you ever have to wear any kind of

9 facemask?

10 A No -- well, only in surgery situations.

11 Q Did you find yourself in those situations

12 from time to time?

13 A Yes.

14 Q So you wore a -- how was it that you made

15 your way to the surgical chamber?

16 A I took training at Fort Sanders Regional

17 Hospital, and part of the training there was

18 several weeks of training in surgery.

19 Q Was that something you did with

20 regularity?

21 A No, not with regularity. We had schedules

22 of -- we had to go do that for a couple of weeks

23 and then something else for a couple of weeks,

24 and then we'd go back. Just switched around.

25 Q And that was when -- as a part of your

1 regular work duties?

2 A Excuse me?

3 Q That was a part of your regular work
4 duties, was to have a stint in surgery?

5 A That was just in my training.

6 Q In your work as an x-ray technician, did
7 you ever have to wear a respirator?

8 A No.

9 Q How about a radiation badge?

10 A Yes.

11 Q Did your radiation badge ever go off while
12 you were working?

13 A It wasn't one that went off. It was one
14 that we -- I had one that I wore on my chest and
15 one on my finger, and they were mailed in to a
16 company and they monitored it.

17 Q Was there ever any follow-up because of
18 the reading on either of the badges that you
19 wore?

20 A No.

21 Q When you were at work at either hospital,
22 did you undergo any screening tests as a
23 consequence of being exposed to radiation?

24 A No.

25 Q There weren't any tests that the hospital

1 provided to you on a regular basis because of
2 the job that you were employed to do there?

3 A No.

4 Q Have you been involved in any other
5 lawsuit besides this one?

6 A No.

7 Q Have you ever filed for bankruptcy?

8 A No.

9 Q Have you ever made a disability claim?

10 A No.

11 Q I believe you said you have never filed a
12 Workers' Compensation claim?

13 A No.

14 Q You've never been found guilty of a crime?

15 A No.

16 Q Ms. Burnum, how is it that you got
17 involved in this lawsuit?

18 A I researched it, and I decided that's what
19 I needed to do.

20 Q Okay. When did you first make the
21 decision that I'm going to file a lawsuit with
22 regard to the ash slide?

23 A I met with Beth Alexander of Lief, F
24 Cabraser, and after I talked to her, I went home
25 and thought about it for a while, and then

1 contacted her back and told her I would do it.

2 Q And I believe you testified that you got a
3 referral to the Cabraser firm from your
4 neighbor?

5 MS. FRY: Object to form.

6 BY MR. SHERK:

7 Q You can answer.

8 A From a man that owns property. He's not
9 actually a neighbor, but he owns a big tract of
10 property beside me.

11 Q Do you know why your husband is not a
12 named plaintiff in this case?

13 A Yes.

14 Q Why is that?

15 A He has a lot of medical conditions,
16 serious medical conditions.

17 Q What is he suffering from?

18 A He has a disease called reflex sympathetic
19 dystrophy, RSD for short.

20 Q What does that condition consist of?

21 A He has nerve damage to his right knee, and
22 that nerve damage has affected his nervous
23 system.

24 Q Of his entire body?

25 A Yes.

1 Q Is he capable of working?

2 A No.

3 Q What did your husband do before he

4 contracted this condition?

5 A He was a chemical operator.

6 Q Where was he employed?

7 A At Lockheed Martin.

8 Q Is that up in Oak Ridge?

9 A Yes, at the K-25 plant.

10 Q How long did he work there?

11 A I'm not sure exactly. It was quite a

12 while.

13 Q Decades?

14 A I'm not sure. Probably 15 years.

15 Q Has anyone concluded that there's a

16 connection between the job he did at K-25 and

17 the condition he is now suffering from?

18 A Yes.

19 Q What did he do as a chemical operator at

20 K-25?

21 A I think he did a lot of inspections on

22 barrels of hazardous wastes, hazardous

23 materials, and he wrote out reports about those

24 inspections.

25 Q Were these materials that were on-site at

1 Oak Ridge or in other places across the country?

2 A At Oak Ridge.

3 Q Is he being provided with medical tests
4 and screening now by his employer?

5 A Yes.

6 Q What sorts of screening tests is he -- or
7 other medical procedures is he currently going
8 through as a consequence of the RSD condition
9 that he's got?

10 A Well, he went through a screening test
11 that his work provided. He had to go to a place
12 in Chattanooga, and they tested him for
13 beryllium, asbestos, all those things. And then
14 he has to see two doctors on a regular basis.

15 Q What sorts of doctors are they?

16 A One is a -- I don't know if you would call
17 him a pain management doctor. He implanted a
18 spinal cord stimulator in my husband's back, and
19 he is the one that follows up with that.

20 Q What does the other doctor specialize in?

21 A Psychiatry.

22 Q To handle the mental and emotional cause
23 of undergoing -- of having a condition such as
24 your husband has?

25 A Yes.

1 Q How old is your husband?

2 A 44.

3 Q Is RSD a treatable condition?

4 A It is treatable, but it does not -- you
5 can treat the symptoms, but you can't make the
6 disease go away.

7 Q So it's not a disease like cancer that can
8 go in remission, for example?

9 A No. It hasn't been in his case, anyway.

10 Q Is it a progressive disease?

11 A It can be.

12 Q Have you found that to be the case with
13 your husband?

14 A It -- for a few years after he got it, it
15 got progressively worse, and now he's kind of on
16 a plateau, where it's stayed the same for a
17 while.

18 Q Does the spinal cord stimulator inject any
19 kind of drug into your husband's system for
20 pain?

21 A No. All it does is it -- he has a wire
22 that goes into his spinal cord, and then the --
23 another wire that comes from that to his
24 stomach, and then there's an implanted box
25 there. And he has a remote control that he

1 holds up to that box and he can push the
2 controls upwards or downward and it controls the
3 amount of stimulation of the nerves that goes to
4 his right knee.

5 Q Is your husband capable of walking?

6 A Only short -- very short distances.

7 Q Is it fair to say, Ms. Burnum, that you
8 have not discussed this lawsuit with any lawyers
9 except the counsel that you've retained in this
10 case?

11 A Yes.

12 Q How was it that you researched the Erin
13 Brockovich law firm?

14 A Through newspapers and Internet.

15 Q Did you see that Erin Brockovich was in
16 the area to give a presentation?

17 A Yes.

18 Q Did you go to that presentation?

19 A No.

20 Q You read about it?

21 A Yes.

22 Q Ultimately, though, your research
23 dissuaded you from contacting that law firm?

24 A Yes.

25 Q Since retaining the Lief, Cabraser firm,

1 how have you kept in contact with them?

2 A By phone and by mail and by e-mail.

3 Q Since the lawsuit was filed, how often do
4 you communicate with your counsel?

5 A I don't communicate with them on a regular
6 basis. It's just when I have a question or if
7 they have a question for me.

8 Q That's when the communications will occur?

9 A Yes.

10 Q How do you keep up with the progress of
11 this lawsuit?

12 A They would send me updates in the mail,
13 and I've also read newspapers and the Internet.

14 Q Have you made any effort to communicate
15 with the other class representatives in this
16 case?

17 A No.

18 Q Do you know any of the folks that are your
19 co-class representatives in this lawsuit?

20 A No.

21 Q Prior to becoming involved in this
22 lawsuit, did anyone try to discourage you from
23 engaging in litigation?

24 A No.

25 Q Where does most of your information about

1 the progress of this lawsuit come from?

2 A It comes from the media, newspaper,
3 television, Internet.

4 Q Ms. Burnum, are you aware that this is a
5 proposed class action lawsuit?

6 A Yes.

7 Q What does that mean to you?

8 A What does a class action mean?

9 Q Uh-huh.

10 A It means that a group of people who have
11 similar claims got together and filed one
12 lawsuit instead of several different.

13 Q What do you view as your responsibilities
14 as a class representative?

15 A I feel like I'm here to represent myself
16 and my family and my friends and my community
17 that all have the same experiences that I have,
18 or similar.

19 Q Have you done anything in particular to
20 prepare yourself to be a class representative in
21 this case?

22 A I've just tried to be knowledgeable on the
23 subject.

24 Q And that's keeping up with news and media
25 and such?

1 A Yes.

2 Q Have you ever investigated anybody else's
3 properties who might be implicated in this case?

4 A No.

5 Q Have you spoken with any of the experts in
6 this case?

7 A No.

8 Q Have you systematically talked with
9 neighbors or other property owners in your area
10 about this lawsuit?

11 A I've talked to several people about it,
12 but not on a regular basis. I mean, everyone
13 talks about it.

14 Q Are these neighbors different from the
15 folks that you've already identified?

16 A Well, it depends on how close of a
17 neighbor you mean.

18 Q Well, apart from the two or three
19 individuals that you identified for me earlier
20 in this deposition who you had talked to about
21 the lawsuit, are there others that you have
22 spoken with about it?

23 A There's several people in our family.
24 I've spoke to my family about it. And there's
25 several people that are interested in it that

1 I've talked to.

2 Q What family members have you had the
3 opportunity to speak with about the case?

4 A My immediate family and also my father and
5 mother and my in-laws.

6 Q Who are the individuals that are
7 interested in this lawsuit?

8 A My family and my friends.

9 Q Are any particular friends that have taken
10 interest in the case?

11 A They're all interested in it.

12 Q Have you tried to figure out who in your
13 area would be a member of the class that you
14 seek to represent in this lawsuit?

15 A Yes.

16 Q How have you undergone that effort?

17 A I've looked at maps and tried to determine
18 exactly where they are on the map.

19 Q Now, when did that -- when did you go to
20 that effort of looking at maps?

21 A I've looked at, you know, maps that have
22 been, like, in the papers and things. And then
23 yesterday we went over the maps quite a bit.

24 MS. FRY: Can we go off the record?

25 Is it a good time to take a break? We've been

1 going about an hour now.

2 MR. SHERK: Sure.

3 (Recess.)

4 BY MR. SHERK:

5 Q Ms. Burnum, we're back on the record after
6 a short break.

7 Are you feeling okay?

8 A Yes.

9 Q Before we kind of head in a different
10 direction, just let me make sure of a couple
11 things.

12 It's my understanding that you are
13 not working now?

14 A Yes.

15 Q And have not worked since 1995?

16 A Right.

17 Q Is your husband working now?

18 A No.

19 Q When did he have to quit working?

20 A In 1996. That is one of the main reasons
21 that I'm also not working, because I had to take
22 him to physical therapy three times a week for a
23 couple of years and back and forth to the
24 doctors.

25 Q Is he on disability?

1 A Yes.

2 Q Is the condition he's now suffering as a
3 consequence of exposure to hazardous substances
4 when he was at work?

5 MS. FRY: Asked and answered.

6 BY MR. SHERK:

7 Q You can answer.

8 A I'm not sure.

9 Q There wasn't a particular accident,
10 though. That he --

11 A Yes, there was a particular accident. He
12 had an accident at work where he tripped over a
13 chain that was on the ground that wasn't
14 supposed to be there, and he damaged his knee
15 and he had to have several surgeries, and that's
16 when he got the nerve damage.

17 Q Okay. And once he sustained the nerve
18 damage, it became a progressive kind of
19 condition?

20 A Yes.

21 Q Is that just the nature of the syndrome --

22 A Yes.

23 Q -- that he has?

24 A Yes.

25 (Marked Exhibit 1.)

1 BY MR. SHERK:

2 Q Okay. Ms. Burnum, you've been handed
3 Deposition Exhibit 1, and I'll represent to you
4 this is a copy of the Consolidated Class Action
5 Complaint.

6 Do you see that?

7 A Yes.

8 Q Before we move to this document, one more
9 question or two.

10 You mentioned that your husband has
11 had to have some screening tests?

12 A Yes.

13 Q And what were those tests intended to
14 detect?

15 A I think it was intended to detect asbestos
16 and cancer and things like that.

17 Q And that -- those tests would have been
18 administered because he may have been exposed at
19 work?

20 A Yes.

21 Q Exhibit 1, the Consolidated Class Action
22 Complaint, this is the document that you
23 reviewed yesterday?

24 A Yes.

25 Q Are you familiar with the classes that are

1 being proposed here?

2 A Somewhat, yes.

3 Q Did you have a chance to look at that
4 yesterday?

5 A Yes.

6 Q If you would turn to page 27 of Exhibit 1.
7 Have you got that page?

8 A Yes.

9 Q Do you see the three classes that are
10 described in paragraph 162 there?

11 A Yes.

12 Q The first class is the Property Damage
13 Class One.

14 Do you see that?

15 A Yes.

16 Q Are you a member of that class?

17 A No.

18 Q The second class described is Property
19 Damage Class Two; correct?

20 A Yes.

21 Q Are you a member of that class?

22 A Yes.

23 Q How about the third class, the Resident
24 Class, are you a member of that class?

25 A No.

1 Q Was yesterday the first time that you have
2 had the opportunity to review these proposed
3 classes?

4 A Yes.

5 Q Since reading the descriptions of these
6 classes and having had the opportunity to think
7 a little bit about them, are there any
8 refinements or additions you would make to them?

9 A The only thing is I would like to have the
10 people in the Class 2 also tested for medical
11 monitoring.

12 Q If someone were to offer you medical
13 monitoring, would you accept it?

14 A Possibly.

15 (Marked Exhibit 2.)

16 BY MR. SHERK:

17 Q Ms. Burnum, you've been handed Deposition
18 Exhibit No. 2, and I'll represent this is a copy
19 of a map that is attached to the back of the
20 Consolidated Class Action Complaint, only this
21 one is in color.

22 Have you seen this map before?

23 A Yes.

24 Q Do you understand that this is the
25 geographic boundary of property Class 1?

1 A Yes.

2 Q Would you expand this boundary then to
3 include folks in Class B so they could obtain
4 medical monitoring?

5 A In Class B?

6 Q Or Class 2, I'm sorry.

7 A Can you restate that question?

8 Q Sure. Would you include -- would you
9 expand this geographical boundary so as to
10 include those individuals in Class 2 in order
11 that they might receive medical monitoring?

12 A If it was possible, I would, but I don't
13 know that it would be.

14 (Marked Exhibit 3.)

15 BY MR. SHERK:

16 Q Ms. Burnum, you've been handed deposition
17 Exhibit No. 3, and I'll represent to you that
18 this is a map that we've prepared which shows
19 the outline of property Class 1 at the top in
20 purple.

21 Do you see that?

22 A Yes.

23 Q Does that outline look substantially
24 similar to the outline of Class 1 as contained
25 in Exhibit 2?

1 A Yes, it looks similar.

2 Q We did our best to make it spot on.

3 In Exhibit 3 do you see the dark blue
4 line that starts at the Emory River, intersects
5 the Clinch, and then travels down the Tennessee?

6 A Yes.

7 Q I'll represent to you we attempted to
8 follow the geographic path of property Class 2
9 which is the one that you're a part of.

10 Do you see that?

11 A Yes.

12 (Marked Exhibit 4.)

13 BY MR. SHERK:

14 Q Ms. Burnum, you've just been shown Exhibit
15 No. 4, and I'll represent to you that this is a
16 blow-up version of Exhibit No. 3.

17 Do you see that?

18 A Yes.

19 Q The whole point of this is to hopefully
20 make it easier to read because Exhibit 3 is
21 pretty small.

22 Do you see the Kingston facility on
23 this map?

24 A Yes.

25 Q Do you recognize that?

1 A Yes.

2 Q Okay. Can you identify or find the
3 location of your property on Exhibit 4?

4 MS. FRY: If you need to turn the map
5 to see it better, you're welcome to do that.

6 THE WITNESS: Thank you. Yes.
7 There.

8 BY MR. SHERK:

9 Q Where is that?

10 A Right here (indicating).

11 Q Can you mark that with a red Sharpie?

12 A (Witness complies.)

13 Q Okay. What Tennessee River mile marker is
14 your property between?

15 A I don't know. I do not know.

16 MS. FRY: You need a magnifying
17 glass. They're so small.

18 THE WITNESS: It is between 556 and
19 557.

20 BY MR. SHERK:

21 Q Oh, I'm sorry. Could you label your
22 property where you had circled it so that later
23 on we know what that little red circle is?

24 A What do you want me to put?

25 Q "Burnum house."

1 A Okay.

2 Q When you think about who is embraced by
3 property Class 2, do you believe that there are
4 other areas that ought to be also encompassed in
5 the class definition but which are not now?

6 A Yes.

7 Q What other areas do you think ought to be
8 involved as well as property 2 class members?

9 A I think these coves that come off the main
10 channel should be.

11 Q Could you go ahead and just draw with that
12 red Sharpie the other areas you think deserve to
13 be a part of property Class 2?

14 A Yes. Do I need to do all these?

15 Q Whatever you think.

16 A This may take a while.

17 Q Ms. Burnum, do you think that property
18 Class 2 goes far enough up the Clinch River?

19 A I think it should possibly go a little bit
20 further.

21 Q Right now it goes from Clinch River mile
22 marker 5.5 to the confluence of the Emory and
23 Clinch Rivers according to the property damage
24 Class 2 definition. You would have it go a bit
25 farther up the Clinch?

1 A Can you show me exactly where the 5?5 is.
2 Q It's right where the blue line stops here.
3 A Okay.
4 Q Here's mile marker 6, and that's mile
5 marker 5.
6 A Okay. I think I would bring it out a
7 little bit farther.
8 Q Okay. If you would go ahead and mark that
9 on Exhibit 4.
10 Q Okay. What direction is your house from
11 the Kingston facility?
12 A It is southwest.
13 Q How long does it take to drive from your
14 house to the Kingston facility?
15 A Approximately 15, 16, 18 minutes.
16 Q How many miles is it again?
17 A I'm not sure exactly. Around 15, 16.
18 Q Okay. If you were to travel by boat from
19 your house to the Kingston facility, how long
20 would it take?
21 A 20 minutes.
22 Q Have you ever done that?
23 A Yes.
24 Q Have you done that since the spill?
25 A No.

1 Q When you were considering becoming
2 involved in a lawsuit, Ms. Burnum, did you ever
3 think about becoming a plaintiff in an
4 individual case as opposed to a class
5 representative in a class action as you are now?

6 A Yes.

7 Q What made you ultimately decide to become
8 involved in a class action rather than an
9 individual lawsuit?

10 A I thought that the class action would be
11 better because we could all get together and
12 work together in the lawsuit instead of me just
13 individually doing what it would take up a lot
14 of time and a lot of money, resources.

15 Q When did you learn that you were a named
16 class representative in this case?

17 A About maybe three months ago.

18 Q Was that a position that you had expected
19 or lobbied for?

20 A No.

21 Q Was it something that you didn't really
22 care to do?

23 A I wanted to do it, but I was -- you know,
24 I didn't know if I should. It took a lot of
25 thinking about it to make a decision.

1 Q As I understand it, you are not seeking
2 claims for personal injury in this case;
3 correct?

4 A Correct.

5 Q Do you think you have personal injuries
6 related to exposure to fly ash?

7 A Personal injury as in health problems?

8 Q Yes.

9 A No.

10 Q Are you seeking medical monitoring for
11 yourself in this lawsuit?

12 A I would like to have medical monitoring as
13 part of the lawsuit.

14 Q Would you like for your husband to receive
15 medical monitoring as part of this lawsuit?

16 A Yes.

17 Q Would you like for your two children to
18 also receive medical monitoring as a part of
19 this lawsuit?

20 A Yes.

21 Q Would you like your parents to receive
22 medical monitoring as a part of this lawsuit?

23 A Yes.

24 Q They're close to you in terms of
25 geography?

1 A Yes.

2 Q About as close to next-door neighbors as
3 you can get?

4 A Yes.

5 Q How far are they, though?

6 A I think probably around an eighth of a
7 mile, I guess.

8 Q Do they have property that is waterfront
9 property?

10 A Theirs is lakeview property.

11 Q Are you claiming emotional distress in
12 this lawsuit?

13 A Yes.

14 Q What kinds of emotional distress do you
15 believe that you have sustained as a consequence
16 of the ash slide?

17 A I have to constantly worry about my
18 children being exposed to the ash.

19 Q Any other kinds of distress that you had
20 sustained?

21 A Well, also for myself and my husband.
22 It has changed our whole lifestyle

23 Q How so?

24 A When I was growing up I always wanted to
25 have the house on the lake, you know, that was

1 my dream. And I get one, and then this ash
2 spill happens. And it's totally changed our
3 lifestyle. Before we were always outdoors,
4 always on the lake, always entertaining, always
5 swimming, boating, fishing.

6 Q And what happens now?

7 A After the ash spill, I'm reluctant to let
8 my kids swim and I'm reluctant to let any of us
9 eat the fish that come out of the water.

10 Q Do you get out on your boat?

11 A After the spill?

12 Q Uh-huh.

13 A I have two times in 2009 and two times in
14 2010. Before the spill it was an every weekend
15 thing.

16 Q Do you know anyone that has an individual
17 lawsuit against TVA?

18 A No.

19 Q Do your parents have their own litigation
20 against TVA?

21 A No.

22 Q Do you know anyone who was resolved their
23 claims against TVA?

24 A No. I've read about some, but I don't
25 know them personally.

1 Q Do you have friends that live in the areas
2 closely surrounding the Kingston plant?

3 A No.

4 Q Have you spoken with anyone who lives in
5 the area surrounding the Kingston plant about
6 their experiences since the ash spill?

7 A No.

8 Q So you're not aware then whether or not
9 individuals that live around the Kingston plant
10 have had different experiences than you have had
11 regarding the ash spill?

12 A I've read about their experiences and seen
13 it on TV, the media.

14 Q And what experiences did they have up
15 there around the Kingston ash spill that you've
16 read about?

17 A Where the ash is thick in their yards and
18 have destroyed some houses and that several have
19 been relocated.

20 Q Anything else that you remember reading?

21 A I've read that several of them have
22 claimed to have health problems.

23 Q Do you know why it is that you were chosen
24 to be a class representative in this case?

25 A Beth Alexander said she talked to several

1 people in the community and several lawyers here
2 and that they recommended me.

3 Q Let's talk about the ash spill that
4 occurred on December 22, 2008.

5 Where were you when the spill
6 occurred?

7 A I was at home.

8 Q Okay. When did you first learn about the
9 ash spill?

10 A When I woke up the next morning, the 23rd.

11 Q What did you hear?

12 A It was on the news on the television when
13 I heard it. And it was just a story. They
14 didn't really know exactly how much had spilled
15 out, but they were trying to determine that.

16 Q Did you observe anything personally on
17 December 23, 2008?

18 A No.

19 Q In other words, you didn't drive up to see
20 the facility on that day?

21 A Not on that day.

22 Q Shortly after the ash slide, did you drive
23 up to the Kingston facility to take a look at
24 what was going on?

25 A Yes.

1 Q When was that?

2 A I believe it was on the 26th.

3 Q The day after Christmas?

4 A Yes.

5 Q Who went up there with you?

6 A My family, my husband and two sons.

7 Q What did you see?

8 A Really not much. They had the road

9 blocked off, of course. And we went along the

10 other side of the Emory River along that --

11 through the subdivisions through there, and

12 there was a long line of cars, you know, people

13 looking, trying to see.

14 Q How many times since your visit on

15 December 26 have you gone back to look at the

16 Kingston facility?

17 A Probably about five.

18 Q Okay. Driving past the Kingston facility

19 is not something you do because you're going to

20 work; correct?

21 A Correct.

22 Q Is that the direction that you take your

23 kids to school?

24 A No.

25 Q And I believe you already testified that

1 you really don't -- you don't know anyone in
2 that immediate area?

3 A Yes.

4 Q So when you go to see the Kingston
5 facility, it's pretty much to just check out
6 what's going on there?

7 A Yes.

8 Q After December 26, when you visited the
9 facility with your husband and two sons, when
10 was your next visit to the facility?

11 A I don't know an exact date. Probably
12 about a month later.

13 Q And what did you see on that second visit
14 to the facility?

15 A I really couldn't see much. They still
16 wouldn't let you get close.

17 Q Did you also go with your husband and sons
18 on that second visit?

19 A Yes.

20 Q Did you go on the same essential route?

21 A Yes.

22 Q So that would have been along the
23 northwestern edge of the facility?

24 A It was --

25 Q Let's use the blue one.

1 A Okay. Do you want me to mark it?

2 Q Sure.

3 A We just went along Highway 70 that way.
4 And then on our way returning, we went back
5 through the interstate.

6 Q So you caught the southern edge of the
7 facility, then?

8 A Yes.

9 Q And you didn't make it up to the
10 northernmost tip of the facility during those
11 visits?

12 A No. During those two, no.

13 Q When was the third time that you had the
14 opportunity to go up and take a look at the
15 Kingston facility?

16 A Probably around September of 2009.

17 Q Okay. So about nine months after the
18 spill?

19 A Yeah. I mean, I drove by it regularly
20 going on the interstate and the highway, but to
21 actually go look.

22 Q What prompted you to take a look at the
23 facility in September of 2009?

24 A Just to see how much they had cleaned up.

25 Q Okay. Did you take the same route?

1 A We drove on some back roads at that time.

2 Q Were you able to see more when you visited
3 in September of 2009 as opposed to your earlier
4 visits?

5 A A little bit more, yeah.

6 Q Were you also with your husband and sons?

7 A Yes.

8 Q Could you see progress in the cleanup
9 operations in September of 2009?

10 A It looked like there was a lot being sent
11 out by railway.

12 Q Okay. What was your next trip to the
13 facility to take a look at how things were
14 going?

15 A Probably around the first of this year,
16 2010.

17 Q What did you see when you visited in --
18 was it January 2010?

19 A Yes.

20 Q What kinds of operations or progress did
21 you witness then?

22 A There was not as many vehicles around. It
23 still looked like they were shipping it out by
24 railway. The waterways, the boats and ships and
25 things, there wasn't as much activity going on.

1 Q On the earlier visits, did you see
2 dredging operations out in the river?

3 A No. I couldn't from where we were, no.

4 Q When you went in December of 2010, did you
5 see dredging operations out there?

6 A It was January.

7 Q Oh, I'm sorry.

8 A 2010.

9 Q Pardon me.

10 A I saw like barges with things on them, so
11 I'm sure that's what it was.

12 Q And have you been back to the facility
13 since January of 2010?

14 A Once.

15 Q Okay. When was that?

16 A It was in the summertime, probably around
17 June.

18 Q And what took you up there on that
19 occasion?

20 A Just to look and see what progress was
21 being made.

22 Q Who did you go with on that visit?

23 A I think it was just my husband on that
24 visit.

25 Q Did you see any progress or improvement?

1 A I'm not really an expert on the progress.
2 I don't know.

3 Q Did it look different to you, the area?

4 A Yes, it looks different.

5 Q During these visits that we've talked
6 about that you've taken of the Kingston
7 facility, have you spoken with any of the folks
8 that worked there?

9 A No.

10 Q You stayed in your car the whole time?

11 A Yes.

12 Q Do you know anyone that has left the area
13 since the ash slide?

14 A You mean moved away?

15 Q Yes.

16 A Not that I can think of right offhand.

17 Q How did your neighbors react to the ash
18 slide within the first six months after it
19 happened?

20 A They were very upset, very worried and
21 concerned about the health effects.

22 Q Did any of your neighbors move because of
23 the ash slide?

24 A No. There's people that are trying to
25 sell their house, but they haven't actually

1 moved yet.

2 Q During the first six months after the ash
3 slide, did any of your neighbors put their house
4 on the market for sale?

5 A I'm not sure if it was in the first six
6 months, but it was right around that time frame.

7 Q Okay. Do you know the names of the
8 individuals that put their house on the market
9 in the six months or so following the ash slide?

10 A In my neighborhood, yes, I know.

11 Q Who are they?

12 A There's a lady named Shirley Hennich.

13 Q How close is she to your house?

14 A Probably a little less than a mile.

15 Q And has she sold her house?

16 A No.

17 Q Anybody else that you can think of that
18 put their house up for sale within the first six
19 months or so following the ash slide?

20 A There was another man and woman, I'm not
21 sure of their names, I don't know them, they put
22 their house up for sale. It didn't sell, but
23 they eventually found someone to trade houses
24 with.

25 Q Where did they end up relocating to?

1 A I think they said Gallaher Road in
2 Kingston.

3 Q And did the folks that traded houses move
4 into their old house?

5 A Yes.

6 Q Do you know them?

7 A No.

8 Q Within the first year after the ash slide,
9 have there been folks in your neighborhood that
10 have put their houses up for sale?

11 A Not a year. A little bit more than a
12 year.

13 Q Okay. How about from the ash spill in
14 December of 2008 until now, besides the
15 individuals that you've already identified, have
16 there been others in your neighborhood that have
17 put their houses up for sale?

18 A Yes.

19 Q Who are they?

20 A There's a man, I know him by the name of
21 Tom. I don't know his last name. I've just
22 always known him as Tom. He has his house up
23 for sale.

24 Q How close is he to you?

25 A A fourth of a mile at the most.

1 Q Do you know his address?

2 A No, I don't, not the number.

3 Q Has he sold his house?

4 A No.

5 Q Anybody else that you can think of?

6 A Well, there's several houses for sale

7 around. It's just what you consider my street,

8 there's just those two right now.

9 Q Okay. After the ash spill, did you and

10 your family ever leave for an extended period of

11 time?

12 A How long is an extended period?

13 Q Say longer than a week.

14 A Yes.

15 Q Was that for vacation?

16 A Yes.

17 Q And when did you take a vacation after the

18 ash spill for a week or more?

19 A In June of 2009 and June and July of 2010.

20 Q Were these summer family vacations?

21 A Yes.

22 Q Have you ever taken your family away from

23 your house in Ten Mile for over a week because

24 of the ash spill?

25 A Yes.

1 Q When did that happen?

2 A That was this year. It was also our
3 summer vacation, but we ended up being gone for
4 three and a half weeks because my kids have been
5 so used to being outdoors and being there on the
6 lake and swimming and boating, and I just really
7 didn't feel safe and comfortable with them doing
8 that, so we ended up spending nearly a month
9 away this summer.

10 Q Where did you go?

11 A We went to South Carolina and Florida.

12 Q And did you stay on the beach in those
13 locations?

14 A Yes.

15 Q Do you have relatives in the area?

16 A No.

17 Q These were just at resorts?

18 A Yes.

19 Q Other than that periods of summer
20 vacation, no other extended periods of time for
21 more than one week that your family moved away
22 from your residence because of the ash spill?

23 A No.

24 Q Okay. After the ash spill in December of
25 2008, did you receive any instructions from

1 public health authorities or TVA?

2 A Directly to me?

3 Q Yes.

4 A No.

5 Q Did you receive any instructions or advice
6 indirectly, say through the media?

7 A Not through the media. I had my
8 sister-in-law, she was seeing a doctor, and he
9 told her not to drink the water at first and
10 things like that, but not to me directly.

11 Q Okay. Did you receive bottled water or
12 air filters for your heater and air conditioner
13 from anyone following the ash spill?

14 A No.

15 Q Did you take any special precautions to
16 more frequently change the air filter in your
17 air conditioning/heater system after the ash
18 spill?

19 A Yes.

20 Q And have you continued to do that?

21 A Yes.

22 Q How often do you change your air filters
23 now?

24 A The air filter that I bought is a
25 three-month filter, and I usually change it

1 within one or one and a half months.

2 Q Have you ever saved those filters?

3 A No.

4 Q Where does your water come from?

5 A From what I understand, it comes from
6 Spring City.

7 Q So you don't have well water?

8 A No.

9 Q Have you had your tap water tested since
10 the ash spill?

11 A No.

12 Q Do you y'all drink the tap water?

13 A Yes. Filtered.

14 Q So you have a filter that hooks to the
15 faucet of your sink?

16 A It goes through the refrigerator.

17 Q So it's one of those deals in the door of
18 the refrigerator where you put your cup and
19 water comes out?

20 A Yeah. And it has a filter down at the
21 bottom of the refrigerator.

22 Q Do you and your family ever drink water
23 straight from the tap?

24 A No.

25 Q Prior to the spill, did you usually drink

1 the water from the refrigerator as opposed to
2 the tap?

3 A Mostly, yes.

4 Q Is it cooled?

5 A Yes.

6 Q What are you seeking in this lawsuit from
7 TVA?

8 A I feel like that my lifestyle has been
9 changed because of the TVA ash spill. I feel
10 like my property values have declined because of
11 the TVA ash spill.

12 Q What would you like TVA to do as it
13 pertains to your lifestyle?

14 A At this point, I don't really know what
15 they can do to assure me that it's safe because
16 I think you need long-term studies, not just an
17 eight-month study.

18 Q Have you had anybody evaluate or appraise
19 your property since the spill?

20 A Just the county, government.

21 Q Okay. Would you like to change the way
22 TVA operates as a part of this lawsuit?

23 A Yes.

24 Q Okay. And how would you have them change?

25 A I think that, from what I've read and

1 studied up on, that I think the ash needs to be
2 regulated as hazardous material.

3 Q Is that something that TVA would do, or is
4 that something that the government or the public
5 health authorities would do?

6 A I don't think they would regulate
7 themselves, I don't think TVA would. There
8 would be some agency that does.

9 Q So you would look to a -- some sort of
10 governmental agency to declare that the fly ash
11 is a hazardous substance and subject to
12 regulation?

13 A Yes.

14 Q Anything else about the way TVA operates
15 that you would like to change?

16 A I feel like instead of getting these
17 private engineering firms to come and sign off
18 and say that everything's okay, I think there
19 needs to be a government agency that also checks
20 on how it's stored.

21 Q So you would want TVA to be required to
22 have government inspectors look at their
23 containment facilities?

24 A Yes.

25 Q Okay. Anything else that you would change

1 about how TVA operates?

2 A Well, in the overall scheme of things, I
3 think we should start looking for alternative
4 methods other than coal, to go along with coal.

5 Q Does that include nuclear?

6 A Yes.

7 Q Would you look beyond nuclear to other
8 avenues of getting power as well?

9 A Possibly such as wind.

10 Q Would you like to have the Kingston
11 facilities shut down altogether?

12 A No.

13 Q Okay. Because that is the source of power
14 in the area?

15 A Yes.

16 Q Have you ever contacted any federal or
17 government official about your thoughts on how
18 TVA operates?

19 A No.

20 Q Do you believe that you have been exposed
21 to hazardous substances in fly ash because of
22 the spill in December of 2008?

23 A Yes.

24 Q How did that ash get there to you
25 personally?

1 A Do you mean from how it flows downstream
2 or --

3 Q Would it be then through the water?

4 A Yes, through the water.

5 Q Any other way that it would have gotten to
6 you?

7 A Where I'm at on this map, I look straight
8 up through there, and that's a very long way to
9 go. And the wind blows constantly in this
10 direction down this water, and it blows right up
11 into my property. I don't know if there's any
12 that airborne, that's come in through the air
13 because the wind blows constantly.

14 Q Do you believe that you were exposed to
15 fly ash in the period of time prior to December
16 22, 2008, from the Kingston plant?

17 A I'm not sure. I've read reports that
18 there's been seepage in different years prior to
19 that.

20 Q Okay. So you think during the period of
21 time prior to the spill when you lived at your
22 current location you may have been exposed to
23 fly ash?

24 A It's possible.

25 Q Okay. And how would that fly ash come

1 into contact with you personally in that period
2 of time prior to the ash spill?

3 A Through water.

4 Q Any other way?

5 A I'm not sure if any would have been there
6 then.

7 Q Have you had any doctor perform screening
8 tests on you to determine whether or not you had
9 been exposed to hazardous substances in fly ash
10 since the spill?

11 A No.

12 Q Do you believe that you are at a
13 significantly increased risk of contracting a
14 disease because of exposure to fly ash from the
15 spill?

16 A I believe I do have a risk, yes.

17 Q Do you believe your husband and children
18 are at an increased risk of contracting a
19 disease because of exposure to fly ash?

20 A Yes.

21 Q Has any doctor told you that you are at an
22 increased risk for contracting a disease because
23 of exposure to fly ash?

24 A No.

25 Q Has any doctor told your husband or either

1 of your boys that they are at an increased risk
2 for contracting diseases as a result of exposure
3 to fly ash?

4 A No. A doctor has told my mother that she
5 has chronic sinusitis possibly due to coal ash
6 exposure.

7 Q What is your mother's name again? Sorry.

8 A Loretta.

9 Q Loretta McKinney?

10 A Yes.

11 Q Does she see an allergist or an ear, nose,
12 and throat doctor?

13 A Yes. Both.

14 Q Oh, she sees both of them?

15 A I think so.

16 Q Did your mother have sinus conditions that
17 predated the spill?

18 A She had in the -- probably mid '90s she
19 had some problems then, and then they were
20 corrected and haven't had any problems since
21 then until 2009. And since 2009 she's been on
22 eight different rounds of the antibiotics.

23 Q What is the name of her physician that
24 suggested that her conditions may be related to
25 coal ash exposure?

1 A I'm not sure who it was. I know it's an
2 ear, nose and throat doctor.

3 Q Would this have been a doctor in the area?

4 A Yes.

5 Q In Kingston or Harriman?

6 A I don't think it was in Roane County, no.

7 Q Where would this doctor be located?

8 A It would either be Anderson County or Knox
9 County, I'm not sure. She has a letter that the
10 doctor sent her through the mail that told that
11 under the diagnosis.

12 Q Did you go with her to any of the visits
13 that she had with this particular doctor
14 regarding her sinus conditions?

15 A No.

16 Q Have you seen the letter that you just
17 described?

18 A Yes.

19 Q Does the letter indicate that her sinus
20 condition may be aggravated due to her exposure
21 to coal ash?

22 A Yes.

23 Q Okay. Ms. Burnum, you live at 461 West
24 Rockwood Ferry Road; correct?

25 A Yes.

1 Q When did you purchase that property?

2 A In 1995.

3 Q So you've been there about 15 years?

4 A I haven't lived there 15 years. It was
5 unimproved property when I purchased it.

6 Q Okay. When did you build your house?

7 A It was completed in 1999.

8 Q And this was a house that you and your
9 husband built together for your family?

10 A Yes.

11 Q Did you move in in 1999?

12 A Yes.

13 Q Where did you move from?

14 A We lived on a road called Shoeboot Road.

15 Q Shoeboot?

16 A Yes.

17 Q Where is Shoeboot Road?

18 A It's in the Midway community. It's a
19 little tiny road off Laurel Bluff Road.

20 Q How far is that from your present house?

21 A Timewise it takes about 15 minutes.

22 MS. FRY: Can we go off the record?

23 (Recess.)

24 BY MR. SHERK:

25 Q Ms. Burnum, we're back on the record after

1 a short break. We have been talking a bit about
2 your mother's health condition since the spill.

3 Do you remember that?

4 A Yes.

5 Q Okay. Do you think that fly ash from the
6 spill has actually caused your mother these
7 physical problems that she's now experiencing?

8 A I'm not sure. I'm not, you know, an
9 expert on that. All I know is what her doctors
10 have said.

11 Q Have they characterized her condition as
12 more as being aggravated by fly ash as opposed
13 to having caused it?

14 A That's the way they sort of make it sound.

15 Q Do you feel that your mother has sustained
16 a physical injury as a consequence of exposure
17 to fly ash?

18 A I think it's very possible.

19 Q All right. We were talking about your
20 house at 461 West Rockwood Ferry Road; correct?

21 A Yes.

22 Q How did you choose that particular lot?

23 A Like I said before, I always wanted to
24 live on the lake, and we searched for probably
25 three years looking for the right place. And I

1 picked that one because it was so private, it
2 was out in the country, and it has a beautiful
3 view. Like I said, you can see all the way up
4 through there.

5 Q You can see all the way up the river
6 channel?

7 A Well, up until this point here.

8 Q Because it's kind of a twisty river?

9 A Yes.

10 Q But there does appear to be a long stretch
11 of river that you can view from your house?

12 A Yes.

13 Q Your husband had already suffered his
14 injury when you moved into your house?

15 A Yes.

16 Q But you bought your house or -- excuse me.

17 You bought the lot prior to your
18 husband becoming injured at work?

19 A Yes.

20 Q Did your husband have a Workers'
21 Compensation claim as a consequence of being
22 injured at work?

23 A Yes.

24 Q And that claim was resolved?

25 A Yes.

1 Q Did your husband also have a medical
2 malpractice claim arising from his injury?

3 A No.

4 Q So there were no beliefs that the doctors
5 that had treated him had done anything wrong in
6 the way that they administered treatment?

7 A No. The problem he had was he had doctors
8 that his company referred him to go see, and
9 they were telling the company he needs to be
10 treated quickly, and his company kept sending
11 him for second opinions, second opinions, and it
12 went on and on and on forever, and that's when
13 his knee got so bad.

14 Q Did his knee become infected?

15 A It wasn't infected. Like I said, it had
16 nerve damage, and it -- he couldn't put any
17 weight on it for a very long time and had
18 extreme pain. He also -- in the accident he had
19 a shoulder separation too, it wasn't just his
20 knee.

21 Q So he really fell hard?

22 A Yeah.

23 Q When he was screened at work, when he had
24 screening tests, did they ever find trace
25 chemicals?

1 A Yes.

2 Q What did they find in the screening tests?

3 A At one point he had arsenic in his blood
4 system.

5 Q Any other hazardous substances?

6 A Not that I'm aware of.

7 Q Did he undergo any treatment for arsenic
8 exposure?

9 A Yes.

10 Q What treatments did he have?

11 A He was sent to a doctor that prescribed
12 him some kind of crystals that he mixed with
13 water that he had to drink. It's supposed to
14 clean his blood out.

15 Q Did his exposure to arsenic in any way
16 worsen the nerve damage in his knee?

17 A I don't know. It's possible. I don't
18 know.

19 Q Is it your understanding that his nerve
20 damage has gotten worse since the injury and
21 continues to progress?

22 A Yes. It has definitely gotten worse since
23 the injury first happened.

24 Q Just to be sure. The property that is at
25 issue for you is the property at 461 West

1 Rockwood Ferry Road; correct?

2 A Yes.

3 Q There are no other properties that you own
4 that would be implicated by this lawsuit?

5 A No. I own other property, but it's
6 farmland, it's not on the lake.

7 Q So it would not fall within the geographic
8 boundary of property Class 1 or 2?

9 A No.

10 Q Where are your other properties located?

11 A I have a small farm. It's off of Brady
12 Lane. It's in the midway community also.

13 Q Okay. What county is that?

14 A Roane County.

15 Q So you chose your lot back in 1995 because
16 of its proximity to the lake?

17 A Yes.

18 Q And because it was private?

19 A Yes.

20 Q Okay. Did you choose it also because of
21 proximity to family?

22 A No.

23 Q Did it have anything to do with its
24 proximity to work for you or your husband?

25 A No.

1 Q Any other reasons that you found that
2 particular lot to be desirable?

3 A Like I said, it's very private and it's
4 full, absolutely full, of wildlife. And every
5 time we're out in my yard, it's like we're in a
6 park, it's very peaceful.

7 Q So you have deer?

8 A Deer, racoons, rabbits, turkeys, coyotes
9 foxes, beavers.

10 Q I take it you are not a hunter?

11 A No, I'm not.

12 Q Or a trapper?

13 A No.

14 MR. SHERK: Off the record.

15 (Off the record.)

16 BY MR. SHERK:

17 Q Ms. Burnum, you grew up in this area;
18 correct?

19 A Yes.

20 Q And have you always been aware of the
21 existence of the Kingston facility?

22 A Yes.

23 Q Growing up you knew it was there?

24 A Yes.

25 Q When you bought your property at 461, you

1 were aware of its proximity to the Kingston
2 facility?

3 A Yes.

4 Q Did you ever worry about a problem
5 emanating from the Kingston facility before the
6 spill?

7 A No, not before the spill, other than the
8 emissions coming from the -- the operations.

9 Q Can you see the facility from your house?

10 A I can if it's a clear day. I can see --
11 back when they had the two larger smokestacks
12 running, I could see the smoke from them.

13 Q You could just see the emission from the
14 two really tall stacks?

15 A Yes.

16 Q But not the stacks themselves?

17 A No.

18 Q Now that there's the new scrubber at the
19 facility that has a lower stack, can you see the
20 emissions from that today?

21 A I'm not sure. I probably could on a clear
22 day.

23 Q Okay. But not to the extent that you used
24 to be able to?

25 A No.

1 Q If you travel from your house by river
2 toward the Kingston facility, how long does it
3 take before you can actually see the facility
4 itself from the boat?

5 A I can see the smokestacks pretty -- you
6 know, fairly soon.

7 Q But the actual facility itself, it takes a
8 while longer to get to?

9 A Yeah.

10 Q To even be able to see?

11 A Well, I mean, I can just see the areas
12 that are up high like the smokestacks. I can't
13 see, you know, on the ground.

14 Q How would you describe your particular
15 neighborhood, where you live?

16 A It is very rural, very quiet, very quiet,
17 very peaceful. There's a lot of older people
18 that live there in the neighborhood, a lot of
19 people use my road to walk on for exercise.
20 It's a dead-end road, not much traffic. There
21 used to be a lot of people that would come there
22 and fish, especially in the spring and fall,
23 right in front of my house prior to the ash
24 spill.

25 Q Has the ash spill changed the character of

1 your neighborhood in that it is rural and quiet
2 and peaceful?

3 A It is still rural and quiet and peaceful,
4 but there's not nearly as much activity such as
5 fishing and things like that.

6 (Marked Exhibit 5.)

7 BY MR. SHERK:

8 Q Ms. Burnum, you've been handed Deposition
9 Exhibit No. 5, and I'll represent to you this is
10 a photograph taken April 17, 2008, which is an
11 aerial photograph looking down at your property.

12 Do you see that?

13 A Yes.

14 Q Do you recognize the emissions photograph,
15 Exhibit 5?

16 A Yes.

17 Q Can you use the red Sharpie and make a
18 circle around your house on that photograph?

19 A Yes.

20 (Marked Exhibit 6.)

21 BY MR. SHERK:

22 Q Okay. Ms. Burnum, I'm now handing you
23 Exhibit 6, which I'll represent to you is a
24 blowup version of Exhibit 5.

25 Do you recognize the image on that

1 exhibit?

2 A Yes.

3 Q I'll also represent to you this is a
4 photograph taken April 17, 2008. It's an aerial
5 of your property.

6 Can you locate your house on Exhibit
7 5, please?

8 A Yes.

9 Q With --

10 A Red.

11 Q Oh, there you got it.

12 A (Witness complies.)

13 Q Your house sits on a fairly unique lot.

14 Would you agree with that?

15 A Yes.

16 Q It's in the middle of kind of a
17 jutting-out piece of property; correct?

18 A Yes.

19 Q Okay. And the reservoir looks like it
20 flows underneath the road and then into kind of
21 a cove surrounding your house?

22 A Yes.

23 Q Are there streams that also flow into the
24 reservoir from either side of your house?

25 A Yes, both sides.

1 Q What is this road that is in front of your
2 house?

3 A That is West Rockwood Ferry Road.

4 Q And there are culverts under that road
5 that allow the water to flow in?

6 A Yes.

7 Q Your house then looks out, you know, over
8 the reservoir over the road and into the
9 channel?

10 A Yes. I don't know if you can tell it from
11 this, but I'm up on a hill, I'm up high.

12 Q So there's an incline from the water up to
13 your house?

14 A Yes.

15 Q Now, to the -- I believe the west -- no,
16 the east of your house, it looks like there's a
17 driveway?

18 A Yes.

19 Q Is that the driveway to your house?

20 A Yes.

21 MS. FRY: If you need to turn it,
22 that's okay.

23 THE WITNESS: My driveway actually
24 starts here, and it goes all the way there.

25 BY MR. SHERK:

1 Q Okay. Is that a road that you had to have
2 specially constructed when you bought the
3 property?

4 A This part is.

5 Q Go ahead and note that in red, if you
6 would.

7 A I can't really tell where it turns. At
8 one point it turns down here.

9 Q So the road on the -- on the -- looks like
10 the dirt road or something like that on the east
11 side of the property was already there when you
12 bought it?

13 A Yes. It's a gravel road.

14 Q Gravel road, okay. But your driveway you
15 had to specially construct when you built the
16 house?

17 A Yes.

18 Q How would you draw your property line on
19 this exhibit?

20 MS. FRY: Object to form.

21 BY MR. SHERK:

22 Q Can you draw like your lot on this
23 exhibit?

24 A Yes.

25 MS. FRY: Object.

1 THE WITNESS: Do you need me to fill
2 in?

3 BY MR. SHERK:

4 Q Sure. Do you understand that your
5 property line goes up to the 750 contour line?

6 A Yes.

7 Q What does that mean to you?

8 A It means that at the elevation of 750 feet
9 above sea level, that I cannot build anything
10 below that line or put anything permanent below
11 that line.

12 Q And are these red lines that you drew at
13 the 750 contour?

14 A Yes.

15 Q So is it your impression that your
16 property line goes all the way down to the
17 water?

18 A No. I know that TVA -- that is TVA
19 property. There's -- I guess I should have
20 drawn it a little inward.

21 Q Yeah, why don't you do it with a black
22 Sharpie, the 750 contour.

23 A Okay.

24 Q Okay. It looks like you have a little
25 dock; is that correct?

1 A Yes.

2 Q Okay. Was that dock there when you bought
3 the property?

4 A No.

5 Q So you had to get a permit for it?

6 A Yes.

7 Q Is that when you have learned about this
8 750 contour line, or did you already know about
9 that when you bought the property?

10 A I knew about it when I bought the
11 property.

12 (Marked Exhibit 7.)

13 BY MR. SHERK:

14 Q Okay. Ms. Burnum, you've been shown --
15 you've been handed, rather, Deposition Exhibit
16 No. 7, and I'll represent to you that this is
17 the very same photograph that we've been looking
18 at in the last two exhibits except that we have
19 imposed the property tax parcel onto your lot.

20 Do you see that?

21 A Yes.

22 Q And that is very close to what you drew on
23 the map, it looks like to me.

24 Would you agree with that?

25 A It's very close. But I know the 750 line

1 does not come that close to my house.

2 Q You think it's farther on down toward the

3 water?

4 A Yes. But other than that, it looks fairly

5 accurate.

6 Q How close is your house to the water?

7 A I'm not sure. I've never measured it.

8 Q How many acres is your lot?

9 A Six and a half acres.

10 Q And it does not look as if you have a

11 neighbor anywhere really?

12 A No.

13 Q So it's very private?

14 A Yes.

15 Q Do you have a boat that you use with your

16 dock?

17 A I did have one, but I sold it.

18 Q When did you sell that boat?

19 A In early 2009.

20 Q What kind of a boat was it?

21 A It was just a little aluminum jon boat.

22 Q Was that boat used just to boat around

23 the --

24 A Yes, just right in through here.

25 Q That's the little reservoir on your side

1 of the county road?

2 A Yes.

3 Q Do you use your dock now?

4 A Not -- no, not really. Sometimes just go
5 out there and sit on it. And that's about it.

6 Q It has a nice view?

7 A Yes.

8 Q Did you used to fish off the dock?

9 A Yes, a lot.

10 Q Did the boys?

11 A Yes.

12 Q Have they done that since the spill?

13 A No -- they did fish one time this spring
14 and none last year. And it used to be like, you
15 know, a big thing for their friends to come over
16 and get to fish off the dock because I would --
17 we would let them keep the fish if they were big
18 enough and I would cook it, and they would get
19 so excited because they were eating their own
20 fish that they caught.

21 Q That was before the spill; correct?

22 A Yes.

23 Q Since the spill you have not done it?

24 A No.

25 Q Have they caught fish since the spill,

1 your boys?

2 A That one day, I think there was one
3 caught.

4 Q Did you do catch and release or --

5 A Yes.

6 Q Now, let's think about your house for just
7 a few minutes.

8 How many stories is your house?

9 A Two.

10 Q What is your house primarily composed of?
11 Wood or stone?

12 A It's a mixture of stone and vinyl siding
13 on the outside.

14 Q Is this a house that you helped design?

15 A It was taken off blueprints.

16 Q Okay. How many bedrooms does your house
17 have?

18 A It has -- it has four but one of them is
19 used as a computer room.

20 Q How many bathrooms?

21 A Three.

22 Q Including a master?

23 A Yes.

24 Q What is your basement made of?

25 A Block.

1 Q Cinder block?

2 A Yes. The back end is block, and on this

3 side is block, and then the front is open,

4 it's -- you know, framed, and then this end

5 there's a garage, and it's framed.

6 Q So you have a walk-out basement?

7 A Yes.

8 Q That looks out over the water?

9 A Yes.

10 Q Is that kind of a recreation room down

11 there?

12 A Yes.

13 Q Have you ever had any foundation trouble?

14 A No.

15 Q No leaking or anything like that?

16 A Not from the foundation, no.

17 Q Did you have a leaky roof?

18 A No. A few years ago when that Hurricane

19 Ivan came through, it -- we had a terrible

20 problem. The wind was blowing just straight up

21 into our windows, we have big tall cathedral

22 ceiling windows, and somehow the wind loosened

23 the seal, and all kinds of water came in and

24 flooded the house.

25 Q Did you get those windows fixed?

1 A Yes.

2 Q Did they have to be completely replaced?

3 A No.

4 Q Just resealed?

5 A Yes.

6 Q Has your home ever been tested for radon?

7 A No.

8 Q Because of the way your house is situated
9 on your lot, do you think it's kind of unique in
10 terms of its view?

11 A I don't know that it's unique. It has a
12 very good view where you can look, you know, way
13 up the main channel.

14 Q Do you have a patio or a deck on your
15 house?

16 A Yes.

17 Q Where is either of those or both located?

18 A My deck goes all the way around the whole
19 entire front of the house, and then it goes
20 along the whole side of this end.

21 Q So you've got a big deck that looks out
22 over the water?

23 A Yes.

24 Q And then one on the -- it would be the
25 south -- south side of the house?

1 A I'm not sure which side it would be.
2 Q This is north.
3 A Yeah, it would be mainly south.
4 Q Does your side deck also have a view?
5 A Yes.
6 Q Okay. And that's where your driveway
7 intersects with the house?
8 A Yes.
9 Q Okay. Do you have central air
10 conditioning?
11 A Yes.
12 Q What is the flooring in your house?
13 A It's a combination of carpet and hardwood.
14 Q Okay.
15 A And tile.
16 Q Tile in the --
17 A Bathrooms.
18 Q Bathrooms.
19 Hardwood in the entryway?
20 A The hardwood is upstairs throughout most
21 of the house except for the bedrooms.
22 Q And the rest is carpet?
23 A Yes, and tile.
24 Q I believe you said your source of water
25 was not a well?

1 A No.

2 Q Instead it's a county source?

3 A It's city water, yes.

4 Q You built your house in 1999, you said, it
5 was completed?

6 A Yes.

7 Q Since then have you done any remodeling
8 projects on it?

9 A Nothing major, no.

10 Q Do you have any projects in mind?

11 A We have talked about a few little things,
12 but like I said, nothing major we. We talked
13 about extending the deck on to this end of the
14 house also.

15 Q It would kind of be the northwest end of
16 the house?

17 A Yes.

18 Q Oh, you would extend the existing deck
19 around the corner?

20 A Yes.

21 Q Anything else that you have in mind as a
22 possibility for improvement?

23 A No.

24 Q How would you compare your house to the
25 other houses in, you know, a two-mile area?

1 A I hate to say it, but I think it's
2 probably nicer than a lot of the others on the
3 same street.

4 Q Is it newer?

5 A Yes.

6 Q Bigger?

7 A Yes.

8 Q Have you ever run any kind of business out
9 of your home?

10 A No.

11 Q You don't have a shop or any kind of small
12 business in the garage or anything like that?

13 A No.

14 Q Do you have pets?

15 A Yes.

16 Q What kind of pets do you have?

17 A I have two German shepherds, and two Jack
18 Russell terriers and one cat.

19 Q Are the German shepherds and the Jack
20 Russell terriers pretty big dogs?

21 A The German shepherds are very large, the
22 Jack Russells are not, they're small.

23 Q Where do they stay, your pets?

24 A I have a dog lot back behind our house,
25 back here in this area.

1 Q A dog lot?
2 A Yes.
3 Q So they're in their own little --
4 A They're separated. I've got my German
5 shepherds in this one, and I've got a smaller
6 one here for the Jack Russells.
7 Q So you've got two different fenced-n areas
8 for your dogs?
9 A Yes.
10 Q Do you let them run free on your property?
11 A No.
12 Q Ever?
13 A No.
14 Q Have you ever let them run free since you
15 built it?
16 A No. I mean, I let them out occasionally
17 if I'm out in the yard with them, but they do
18 not roam around on their own freely.
19 Q Do they spend any time in your house?
20 A No.
21 Q Do you walk them?
22 A Occasionally.
23 Q Are they hunting dogs?
24 A No.
25 Q They're just family pet dogs?

1 A Pets.

2 Q Do your boys spend a lot of time with
3 them?

4 A Yes.

5 Q Does their lifestyle or activity level
6 vary by the season?

7 A The dogs'?

8 Q Yeah.

9 A No, not really. They're pretty much
10 active year-round.

11 Q They run around in their areas?

12 A Yes. The German shepherds have a very
13 large area that they're in.

14 Q Do your dogs swim in the reservoir?

15 A They did before the ash spill
16 occasionally.

17 Q Okay. And have they since the spill?

18 A No. I won't let them.

19 Q Before the spill how often would you let
20 them get in the water?

21 A In the summer and spring and fall months
22 maybe once every three weeks or so.

23 Q Okay. Has anybody ever told you that it
24 would be bad for the dogs to get in the water
25 now?

1 A No. No one has told me that. I just read
2 in the newspaper one time that the man who owned
3 the dog that is in that first zone area, that he
4 had a dog, that his dog after the ash spill
5 would not drink the water.

6 Q Have you seen in the news the results of
7 any of the public health studies that have come
8 out since the ash spill?

9 A Yes.

10 Q What conclusions have been reached as far
11 as you know?

12 A As far as I know, they're pretty much
13 saying that there's no immediate health effects,
14 no harmful health effects.

15 Q When you hear those kinds of conclusions,
16 does it make you feel better about letting your
17 dogs get in the water?

18 A No.

19 Q Okay. Why is that?

20 A Because I'm worried about the long-term
21 health effects.

22 Q Are you skeptical of the findings that the
23 public health community has come to with regard
24 to the consequences of the ash spill?

25 A Yes.

1 Q Okay. Do you think that the public health
2 authorities are delivering misleading
3 information?

4 A I don't particularly think they're giving
5 misleading information. I just don't think that
6 they've studied it long enough to draw a
7 complete conclusion. I think they're just
8 making predictions.

9 Q Do you know what kinds of tests that the
10 public health authorities have conducted that
11 led them to the conclusions that they had
12 reached?

13 A I know that several people took part in a
14 health study, and my parents were one set of
15 people. And I know they've done, you know, air
16 monitoring and water monitoring, of course.

17 Q Right. Okay.

18 Now, we've just had the Labor Day
19 weekend; correct?

20 A Yes.

21 Q Did you see activity in the area of the
22 lake in and around your house over the Labor Day
23 weekend?

24 A I saw some boating activity.

25 Q Okay. Was it sailboating?

1 A No.

2 Q Motorboating?

3 A Yes.

4 Q Did you see any skiers on the lake?

5 A No.

6 Q Did you see any swimming over the Labor

7 Day weekend?

8 A No.

9 Q Are there people with docks in your area?

10 A Yes.

11 Q Okay. Have those docks been in use over

12 the course of the last month or two?

13 A I have not seen anyone using them.

14 Q You haven't seen anyone on the lake?

15 A Not on the docks.

16 Q Have you seen anybody using the lake and

17 the channel for recreational purposes this

18 summer?

19 A Yes.

20 Q What kinds of things would they be doing

21 out there?

22 A Boating. I've seen some tubing.

23 Q Any sailboating?

24 A I have occasionally seen a sailboat, not

25 like I used to, but there are occasional --

1 there is one that goes by occasionally.

2 Q Okay. Did you ever travel upriver to go
3 to any of the coves that -- where people would
4 congregate, have picnics and stuff?

5 A By boat?

6 Q Yes.

7 A I used to. I don't anymore.

8 Q Whereabouts would you go?

9 A Just -- sorry, it's several different
10 places.

11 Q We looked on Exhibit -- looks like the big
12 map, Exhibit 4.

13 A There's three little islands right here.
14 We used to go to there a lot.

15 Q Could you circle those?

16 A Yes.

17 Q Do those islands have a name?

18 A I'm sure they do, but I'm not aware of it.

19 Q What's the name of this big island right
20 here?

21 A I think that is thief Neck Island.

22 Q Thief Neck Island?

23 A Yes.

24 Q Could you label that?

25 A (Witness complies.)

1 Q So there are islands just to the east of
2 Thief Neck Island where you would go from time
3 to time?

4 A Yes.

5 Q And this was before the spill?

6 A Yes.

7 Q Do people congregate there now that you've
8 seen?

9 A Yes. I've seen a few.

10 Q Okay. Now, also we go to an island
11 further down this way. I'm not sure where it is
12 on the map, but everyone calls it Sand Island.

13 Q So that is farther north down the river
14 from your house?

15 MS. FRY: Object.

16 MR. SMALL: Oh, sorry.

17 Q It's farther south from your house?

18 A Yes.

19 MS. FRY: You're looking at it upside
20 down, to your credit.

21 BY MR. SHERK:

22 Q Have you been there since the spill?

23 A On one of the times the two times that we
24 went out on the water this summer, we went there
25 once.

1 Q How far is that from your house?

2 A I'm not exactly sure. I don't know if
3 it's that one or this one.

4 Q These are just islands in the main channel
5 that you're looking at; right?

6 A Yes.

7 Q When you went out this summer, did you
8 have a picnic or anything like that with your
9 family?

10 A Yes, on the boat. We didn't get off, but
11 on --

12 Q Has your husband because of his condition
13 been able to do much over the last 10 years or
14 so in terms of, you know, physical activity
15 involving the river or the lake?

16 A No. Before his accident, he used to
17 kneeboard a lot and he was really active, but he
18 can't do any of that now.

19 Q When he goes boating, does he just have to
20 stay in the boat?

21 A Yes. He's the driver.

22 Q Has he been able to do any swimming since
23 his accident?

24 A He hasn't.

25 Q Are your boys water skiers?

1 A No. They like to do the tubing.
2 Q So they did tubing before the spill?
3 A Yes.
4 Q Have they tubed since the spill?
5 A One time this summer.
6 Q Where did your husband take them tubing?
7 A Well, we all went -- we put the boat in at
8 Blue Springs Marina, and we just stayed --
9 mostly -- the furthest north we went was where
10 our house is, and then we stayed mostly down
11 south.
12 Q So Blue Springs Marina is a little bit
13 south from you; correct?
14 A Yes.
15 Q Did you rent a boat?
16 A No. I own a boat. I own a boat and two
17 jet skis.
18 Q So you keep your boat and jet skis at Blue
19 Springs Marina?
20 A No. I keep them at my house.
21 Q Oh, okay. You have a dock that is right
22 in front of your house, but that's not where you
23 keep your boat and your jet skis?
24 A No.
25 Q Do you have another dock?

1 A No, I only have one dock. We just keep
2 the boat and jet skis out of the water.

3 Q Oh, okay. They're at your house, just not
4 in the water?

5 A Right.

6 Q Typically when you use your boat and your
7 jet skis, do you launch them in the Blue Springs
8 Marina?

9 A Usually. I have not used the jet skis in
10 two years, so -- just the boat.

11 Q So the jet skis have not been in the
12 water?

13 A No, not at all.

14 Q Has anyone borrowed them or anything?

15 A No. I even have the registration sticker
16 that, you know, you have to renew every year,
17 and the one that's on it now is already expired,
18 it's been expired for a year. I have a new one,
19 I haven't put it on.

20 Q Have you thought about selling your jet
21 skis?

22 A Yes.

23 Q You think you might put them up for sale?

24 A My kids do not want me to, try to talk me
25 out of it.

1 Q Have you thought about selling your boat?

2 A Yes.

3 Q Do you plan to put it up for sale?

4 A Eventually, yes.

5 Q But not while the boys are young?

6 A We're thinking maybe in the next couple of
7 years because we don't use it much at all
8 anymore.

9 Q Does your husband ever take your boys out
10 fishing on the boat?

11 A No.

12 Q Can your husband get to the boat and get
13 it launched by himself?

14 A I'm not sure. He never has.

15 Q Oh, you always go with him?

16 A Yeah, all of us do because it takes all of
17 us to get it in.

18 Q Before the spill, how often would you go
19 out as a family on the water with the boat?

20 A In the summertime pretty much every
21 weekend, mainly on Sundays.

22 Q As the years have progressed since his
23 accident, has your husband's physical
24 disabilities been an increasing problem in terms
25 of being able to get the boat out and getting

1 him out on the boat?

2 A No, because I do a lot of the work and my
3 oldest son does too.

4 Q Because he's old enough now to help?

5 A Yeah. He's 14. Taller than I am.

6 Q Now, you have been at home since 1995?

7 A Yes.

8 Q How do you spend your typical weekday at
9 the house?

10 A I get up early in the morning, about 6:40,
11 and get the kids up and get them fed and ready
12 for school. And then I volunteer a lot of time,
13 especially in the fall, with the youth football
14 program, so I spend a lot of time. Every week I
15 have to go to get things for the concession
16 stand. I order all their equipment, their
17 football pants, their helmets, things like that.
18 And then my husband has a lot of doctors'
19 appointments, I go to those with him.

20 Q He has two main doctors that he sees?

21 A Yes.

22 Q And he has periodic appointments with both
23 of them?

24 A He sees one every month, and the other one
25 he sees every other month. The one he sees

1 every other month he did used to see every
2 month, but that doctor moved to Morristown. And
3 so now, since it's such a far drive, that doctor
4 told him he could come every other month.

5 Q Which doctor is that?

6 A It's Dr. Harris. He's the one that's, I
7 guess, the pain management specialist. The one
8 that implanted the spinal cord stimulator.

9 Q And the other doctor is who?

10 A Dr. Burris.

11 Q He's a psychiatrist?

12 A Yes.

13 Q Are there other medical specialists that
14 your husband sees?

15 A No, just a family doctor.

16 Q What is your typical weekend day like?

17 A Depends on which season it is. But I'm
18 always at a ball field. Both my boys play
19 football, basketball, baseball, so I'm always
20 there. And then like Saturdays for football I
21 have to get there early, around 12:30, and I
22 don't usually get to leave until around 10:00 at
23 night.

24 Q And it can't be any better with the
25 baseball. Is it?

1 A No. My youngest son, actually, last year
2 he played on two different teams, so it's
3 constant.

4 Q My son played baseball. It was just an
5 unbelievable commitment by the parents. More
6 time in a scorchingly hot ball field than I
7 think I ever wanted to spend, that's for sure.

8 So your boys play football, they
9 play baseball. Do they play soccer?

10 A No, they play basketball.

11 Q Okay. So that's the --

12 A We have a very, very short break in the
13 summertime.

14 Q Do they play in premier leagues?

15 A They play for their schools. And my
16 younger son, he plays -- they have youth leagues
17 for him. And then last year he played on two
18 teams, he played on a traveling team also.

19 Q That's what -- at least where I'm from, we
20 call them premier teams for kind of the better
21 kids, and they go out of the area and play other
22 teams. That's quite a commitment.

23 A Yeah.

24 Q Who does the yard work around your house?

25 A My husband rides on the riding mower, and

1 then I do all the weed eating, weed trimming.

2 Q Has that changed at all since the spill?

3 A No.

4 Q Do you do any gardening around the house?

5 A Yes, just flowers. I have at times had a
6 vegetable garden, but I didn't this year.

7 Q Who takes care of the flower gardens?

8 A Me, I do.

9 Q Do you do much entertaining at the house?

10 A I don't do nearly as much now as I used to
11 before the spill. I used to have a lot of
12 parties especially for the kids, mainly for the
13 kids. They'd come over and go swimming or go
14 fishing.

15 Q Have you had any of those kinds of parties
16 since the spill?

17 A I've had my son's birthday party. He had
18 several boys over for the night, and I didn't
19 let them get in the water. They wanted to, but
20 I didn't let them.

21 Q Which son is this?

22 A The youngest, eight-year-old.

23 Q Brendan?

24 A Brendan, yes.

25 Q So did they get to do any fishing or

1 anything like that?

2 A No. The most they did at the water is
3 they skipped some rocks.

4 Q Okay. Do you still entertain in terms of
5 having a barbecue or things like that at the
6 house?

7 A Occasionally, not very often, though.

8 Q Okay. And why is that?

9 A Because when I bought the property, I
10 bought it so we could have big get-togethers
11 and, you know, do the swimming and fishing and
12 boating, and now I don't feel comfortable
13 inviting everybody over there to do that when I
14 don't hardly ever do it myself anymore.

15 Q Can you still have people over and have
16 them gather on the deck and enjoy a meal and the
17 view?

18 A Yes.

19 Q And do you do that kind of thing?

20 A Occasionally.

21 Q Are these parties mainly family?

22 A Yes. And for my kids, it's their friends.

23 Q Okay. Their sports teams?

24 A Yes.

25 Q School buddies, that kind of thing?

1 A Like I said, they're all very active --
2 they're both very active, and all their friends
3 are very active.

4 Q You mentioned earlier that sometimes
5 people walk on the road around your house?

6 A Yes.

7 Q Is it the road that -- is it the county
8 road that's in the front of your house?

9 A Yes.

10 Q That bisects the reservoir?

11 A Yes.

12 Q That's the road you're talking about?

13 A Yes.

14 Q And do people still walk on that?

15 A Not as much as they used to. There's
16 still a few, but not as many.

17 Q Do you let others use your property for
18 any kind of recreational purposes?

19 A Like what would you be talking about?

20 Q Hunting.

21 A Yes.

22 Q And have you since you purchased the house
23 allowed others to use your property for hunting?

24 A Yes.

25 Q Would that be deer hunting or just

1 whatever's out there?

2 A Mostly deer hunting. There's not very
3 much deer hunting right there on my property,
4 but some. And racoon hunting.

5 Q Okay. Because there's quite a chunk of
6 property, six acres; right?

7 A Yes. Plus all the land that's behind me
8 is vacant also, and I have use to it whenever I
9 want.

10 Q Okay. For hunt -- are you a hunter?

11 A No.

12 Q Just for strolling around?

13 A Yes. Exercise for me.

14 Q Have you ever allowed folks to use your
15 property for fishing?

16 A Yes.

17 Q Has that been both pre- and post-spill?

18 A I don't think anyone has used it
19 post-spill.

20 Q Okay. If somebody came up and asked to
21 fish at your property, would you let them?

22 A I probably would let them fish. I just
23 would advise them against eating them. I would
24 prefer them be catch and release.

25 Q Has anybody used your property for hiking,

1 that type of activity?

2 A Nobody other than us.

3 Q Than the family?

4 A Yes.

5 Q If we look at Exhibit 6, that's the big
6 blowup aerial photo of your property.

7 Following the spill in December of
8 2008, do you believe you saw any fly ash in the
9 water?

10 A Most definitely.

11 Q Okay. Where was that?

12 A The culvert that's under the road is on
13 this side, and it was all through here and
14 especially concentrated back in these back
15 areas. It was all the way around -- pretty much
16 all the way around.

17 Q Why don't you use the blue Sharpie, just
18 make a line where you saw fly ash.

19 A It was pretty much all through here.

20 Q Was there any fly ash in the -- the
21 channel side of the water?

22 A Yes, there was a lot.

23 Q Okay. When did fly ash first appear after
24 the spill?

25 A The first time that I really noticed it

1 was -- we had a period of several rainy, stormy
2 days back in the spring of 2009.

3 Q So it was a couple months after the spill?

4 A Yes.

5 Q A few months after the spill that you saw
6 the fly ash?

7 A Like a huge concentration of it, yes.

8 Q Was it your impression that the rain drove
9 it in?

10 A Yes.

11 Q So up until that time you hadn't had any
12 problems?

13 A Not really.

14 Q Do you call the fly ash cenospheres?

15 A Yes.

16 Q What do you understand a cenosphere to be?

17 A I'm really not sure exactly what a
18 cenosphere is. I just know I've had
19 representatives from TVA come out to the
20 property and look at it, and that's what they
21 called it.

22 Q Okay. What is the -- what does the fly
23 ash look like?

24 A When it's dry, it's like a powdery
25 substance.

1 Q Okay. And when it's wet, what does it
2 look like?

3 A When it's in the water, it's kind of
4 silverish looking and it's shiny.

5 Q So it's a silvery color?

6 A Yes.

7 Q Okay. When the fly ash was in the
8 reservoir in front of your house, what did you
9 do about it?

10 A Contacted TVA at the call center.

11 Q What happened next?

12 A Well, left several messages, and they
13 never did return our call. And then finally, my
14 husband got a hold of someone, actually, on the
15 phone that picked up and answered, and she said
16 that she would have someone come out.

17 Q What time period was this?

18 A It was right after we got all that heavy
19 rain that washed all that in.

20 Q Did you say it was May of 2009?

21 A It was in the spring of 2009.

22 Q Okay. All right. So did someone
23 ultimately come out?

24 A Eventually, yes.

25 Q Okay. And what happened next?

1 A They came out and looked around. And on
2 this side of the water they brought a truck that
3 somehow pumped it out. But on this side they
4 said they could not get the truck to it. And
5 they said that what they needed to do was wait
6 until the water goes back down in the fall and
7 then they could come in and clean it up, but
8 they would rather wait until the water level
9 goes back down.

10 Q So on the channel side of the county road
11 in front of your house they were able to clean
12 up some of the cenospheres?

13 A They have come back several times. I
14 mean, I have pictures of cenospheres on this
15 side.

16 Q Okay.

17 A And they also -- when they came out, they
18 put a boom right through here.

19 Q Boom that's in front of the culvert where
20 the water is fed into?

21 A Yes.

22 Q The -- the waters that are out in front of
23 your house?

24 A Yes. But it did not last long. It broke
25 loose a week later, and it laid against the bank

1 for a few months.

2 Q Did someone come out and fix it?

3 A After we called them several times they
4 did, they put a bigger, heavier one.

5 Q Have you ever gone down to the water
6 yourself and cleaned up any fly ash?

7 A No.

8 Q Has your husband ever done that?

9 A No.

10 Q Have either of your boys ever done that?

11 A No.

12 As far as when I said that they said
13 that they would have to come out when the water
14 level went back down, they never did come back
15 out. So we started calling again and just kept
16 leaving messages, and they didn't respond back.

17 And then finally, my husband got a
18 hold of someone on the phone eventually, and a
19 man came out, and he said the total opposite.
20 He said we need to wait until the water level
21 rises back up and washes it out from underneath
22 the bank and on the rocks. He said completely
23 opposite of what the first man said.

24 So my husband talked to him about it
25 for quite a long time, and he finally did bring

1 a crew in, and they bagged up some leaves, just
2 a few, you know, not much, just a few bags of
3 leaves, and they said they would come back
4 again, and they still haven't.

5 Q Did they have a crew of men that walked
6 the area of the water in front of your house?

7 A Yes. I had to sign papers letting them --
8 giving them permission to do that.

9 Q A waiver?

10 A Yes.

11 Q So they bagged up some material that you
12 saw?

13 A Yes. And they said they would come back
14 out later and -- when the water went back up and
15 they would, you know, be able to clean it out
16 better. But then they never did come back.

17 Q Has the fly ash stayed out in the area
18 that you have marked on Exhibit 6?

19 A It's strange how it does. It will be
20 there and it will -- you can see it, it will be
21 there be for like four or five hours, and then
22 it seems like it just disappears and it will be
23 gone for a week or two, and then you look out
24 and it's back. It does that on both sides of
25 the road.

1 Q And has that been the situation since you
2 first saw the fly ash?

3 A Yes.

4 Q Okay.

5 A I mean there has been periods of time,
6 like a couple months' time, where I did not see
7 any. But then like, you know, on the 2nd of
8 this month it was back. It just comes and goes.

9 Q Has the fly ash ever gotten above the area
10 down by where the water is?

11 A I don't -- the water has not washed it up.
12 It has washed it up on the bank when we've had,
13 you know, high waters. But I know we had a big
14 fish kill this February of 2010, and I've got,
15 you know, so much wildlife, I saw fish that, I
16 assume, racoons, or whatever, had carried up
17 into the yard, and I -- that's the only way I
18 can figure it got up there. So I figured those
19 animals are also tracking it up into the yard.

20 Q Oh, okay. So wildlife may have tracked
21 up --

22 A Yes.

23 Q -- some fly ash?

24 Any other way fly ash may have gotten
25 up in your yard?

1 A It could have possibly have blown when it
2 got dried out.

3 Q Have you ever seen any fly ash in your
4 yard?

5 A I have -- it has been up in the yard, but
6 it's in the 750.

7 Q It's below the 750 line?

8 A Yes.

9 Q So that would be TVA's property?

10 A Yes. There's an area behind our house in
11 that property that the man behind us owns, and
12 you can walk all the way back to the back of it,
13 and there's a cove back there, and there was a
14 huge amount of it back there.

15 And even my 14-year-old son, we were
16 walking back there one day, and he said, How did
17 all this sand get here? It was so much back
18 there then.

19 Q Now, we talked about the -- the fact that
20 there are streams on either side of your
21 property that flow into the reservoir; correct?

22 A Yes.

23 Q Do you think that has any impact on
24 cenosphere activity?

25 A One of the men that came out said that

1 that would be helpful in our case, that it would
2 kind of help wash it on out. That's what he
3 said. But in the summertime when the creeks are
4 not really running, the water backs up in here,
5 and that's where a lot of the cenospheres are
6 located, back in here.

7 Q Those are kind of stagnant areas?

8 A Yeah, in the summer they are. They run in
9 the spring, a little bit in the fall.

10 Q So in the spring and the fall there's a
11 pretty good flow of water down those streams?

12 A Yeah, there can be after a rain.

13 MS. FRY: Can we go off the record?

14 (Lunch recess.)

15 (Marked Exhibit 8.)

16 BY MR. SHERK:

17 Q Ms. Burnum, we're back on the record after
18 our lunch break.

19 We have been talking about your
20 house. Let me hand you the next deposition
21 exhibit. This is Deposition Exhibit No. 8.

22 Ms. Burnum, this is a five-page
23 exhibit of some photographs of your house.
24 Please take your time to take a quick peek at
25 this exhibit.

1 A Okay.

2 Q Ms. Burnum, let's look at page 1 of
3 Exhibit 8.

4 What does that photograph depict?

5 A It shows my house and my property.

6 Q Okay. Does that appear to be a photograph
7 taken from that county road looking up toward
8 your house?

9 A Yes.

10 Q So that shows the reservoir water that's
11 by your house and then up your yard to your
12 house; correct?

13 A Yes.

14 Q Is that the deck on the back of your house
15 that you described earlier?

16 A That's actually on the front of the house.

17 Q Oh, the front of the house?

18 A Yes.

19 Q So the front of the house looks at the
20 water?

21 A Yes.

22 Q Okay. And that also shows your little
23 dock there?

24 A Yes.

25 Q Okay. Let's look at page 2. And like

1 page 1, this photograph was taken July 14, 2010.

2 What does this photograph depict?

3 A It has my house in the left-hand corner
4 and the cove on the right-hand corner of my
5 house.

6 Q So this photograph shows one of those
7 little coves that are on the side of your house;
8 correct?

9 A Yes.

10 Q Okay. Let's look at page 3 of Exhibit 8.
11 This is a photograph taken May 4, 2010.

12 Do you recognize this view?

13 A Yes.

14 Q What does this depict?

15 A This is looking on the right-hand -- or
16 the left-hand side of my house and to the other
17 cove on the opposite side.

18 Q So looking at page 3 of Exhibit 8, your
19 house would be up to the right?

20 A Yes.

21 Q Not shown in this photograph?

22 A Correct.

23 Q But up there. So this is the other little
24 cove?

25 A Yes.

1 Q Okay. Let's look at page 4. This is a
2 photograph taken July 14, 2010. What does this
3 depict?

4 A It's hard to tell, but it looks like it's
5 looking back into that same cove that was on
6 picture 3.

7 Q Okay. I think that's right. Yeah, okay.

8 Q And the final page, page 5 of Exhibit 8,
9 what does this depict?

10 A This is the boom on the other side of the
11 county road.

12 Q Okay. So this is a boom that's in front
13 of the culvert where the water flows into your
14 house?

15 A Yes.

16 Q Into the area in front of your house;
17 correct?

18 A Yes.

19 Q And this is dated July 14, 2010; correct?

20 A Yes.

21 Q Is there a boom there now?

22 A Yes.

23 Q Okay. So this would presumably be the
24 same boom.

25 Has this boom been there fairly

1 continuously since the spill?

2 A Like I said before, the first time that we
3 started calling them, they came and put a boom
4 out and then it broke free a week later right
5 after they put it out. And when the water level
6 went down, it left this boom that was there up
7 on a rock ledge, and it stayed on that rock
8 ledge for months. And then they finally came
9 out and replaced it with a new one.

10 Q So this is the new boom?

11 A Yes. It should be, yes.

12 (Marked Exhibit 9.)

13 BY MR. SHERK:

14 Q Ms. Burnum, you've been handed Deposition
15 Exhibit No. 9. And I'll represent to you this
16 is a compilation of some of the photographs that
17 we received from your counsel that are
18 attributed to you. We got around 500 different
19 photographs, and I confess they were really hard
20 for me to figure out what they were, but I've
21 chosen some that I thought we might talk about
22 pretty briefly. Okay?

23 Let's start with the first page of
24 Exhibit No. 9, and that's Bates No. 42, it's
25 Burnum-Debra-000042 is the Bates number on this

1 photograph.

2 Can you tell what this photograph
3 depicts?

4 A It's very hard to see because it's so
5 dark. But when I took the photographs, I was --
6 I can't tell if this is the photography took of
7 the fish kill or the ash. It's too dark.

8 Q Let's look at the next page, which is
9 Bates No. 61.

10 Can you tell what this photograph
11 depicts? It looks like maybe your dock?

12 A Yeah, that is my dock there. But as far
13 as anything else, it's hard to make anything
14 out.

15 Q Okay. Let's go to the next page, that
16 would be Bates No. 62 of Exhibit 9.

17 Can you tell what this depicts?

18 A No, it's too dark.

19 Q Let's move to the next one, Bates No. 67.

20 Can you tell what this is?

21 A From what I can tell, it looks like some
22 of the cenospheres floating in the water mixed
23 in with some brush.

24 Q Okay. The next page would be Bates No.
25 71. It's a little clearer.

1 A Yeah.

2 Q Let's look at 71 and 72 together, or 73,
3 rather.

4 What do those show?

5 A I think these are -- 73 for sure is on the
6 other side of the county road.

7 Q That's on the --

8 A The main channel side. And I'm pretty
9 sure this 71 is also. And the light-colored
10 areas are cenospheres and ash.

11 Q On 71?

12 A Yes. And the thick looking stuff here in
13 the water is the same thing, the cenospheres.

14 Q Also looking at 71?

15 A Yes.

16 MS. FRY: Wait. Just for the record,
17 she was looking at 73.

18 MR. SHERK: Oh, okay.

19 THE WITNESS: Yes.

20 BY MR. SHERK:

21 Q Let's back up then. Can you give me that
22 answer again just describing what photograph
23 you're looking at?

24 A On 73 I know for sure, without a doubt,
25 that is on the other side of the county road in

1 the main channel, that's the bank that's right
2 up against the roadway.

3 Q And that shows brush?

4 A It shows brush and then the cenospheres
5 and ash all mingled in with the brush piles in
6 the water.

7 Q Is that a neighbor's dock off in the
8 distance?

9 A Yes.

10 Q Let's move to photograph No. 97. What
11 does this depict?

12 A That shows a view of my house. And it's
13 so dark, you really can't see in the water on
14 this one.

15 Q Let's move to the next one, 110.

16 Can you tell what this shows?

17 A That shows the cenospheres and the ash in
18 the water along the bank.

19 Q Is this the channel side of the Watts Bar
20 area?

21 A It looks like it is, but I cannot be 100
22 percent sure because it's so dark.

23 Q The next page is Bates No. 269.

24 Can you tell me what this shows?

25 A It shows more of the ash and cenospheres.

1 Q Do you know where this is located?

2 A I cannot tell in this picture because it's
3 so dark. I cannot make out any landmarks.

4 Q Do you know when any of these photographs
5 were taken?

6 A Not exactly for sure. I took several
7 pictures over, you know, several different
8 dates. Without them having the date on them, I
9 don't know for sure.

10 Q Okay. Would you have been the
11 photographer --

12 A Yes.

13 Q -- on these photographs?

14 A Yes.

15 Q Now, we're at -- did you describe 269?
16 Sorry, I think I may have interrupted.

17 A Yes, I think so.

18 Q You did, okay. All right.

19 288, what does that show?

20 A That just shows the water, I believe, in
21 front of my house. But it's so grainy, I can't
22 pick out the ash in it.

23 Q The next page is 304.

24 A I can see some of the ash and cenospheres
25 down on the bottom corner of the water.

1 Q Okay. The next page of Exhibit 9 is 423.

2 Do you see that photograph?

3 A Yes.

4 Q That's a little bit more legible. What
5 does it show?

6 A That shows the boat that I used to have
7 that we kept just to ride around in that little
8 area before I sold it.

9 Q That was the jon boat?

10 A Yes.

11 Q All right. The next page, Bates No. 427.

12 A It just shows more of the ash in the
13 water.

14 Q Where would this have been located? Do
15 you know?

16 A Not for sure. Not as dark as it is.

17 Q Okay. Page No. 434 is the next page of
18 this exhibit?

19 A That is a picture of my dock and then the
20 water out from it.

21 Q The next page of Exhibit 9 is 439.

22 What does this picture show?

23 A This is a picture looking out from my
24 house.

25 Q It looks like out in a distance there may

1 be a boat of some sort?

2 A I believe it's some type of barge. They
3 were putting in a dock across the water there.

4 Q Okay. Do you know when this photograph
5 was taken?

6 A Not for sure, no.

7 Q Okay. The next photograph on Exhibit 9 is
8 Bates No. 443.

9 A It's a photograph of my house from the
10 front.

11 Q And you took this photo?

12 A Yes.

13 Q Okay. Now, the next page is 445.

14 What does this show?

15 A This is a picture of a small area where
16 there was -- there was a massive fish kill in
17 the cove there, and this is just representative
18 of that.

19 Q Okay. Is that the same with the final two
20 pages of this exhibit, 448 and 465?

21 A Yes. That shows them scattered. There
22 are literally hundreds, if not thousands, of
23 them.

24 Q When were all the fish present as these
25 photographs show in the water by your house?

1 A These photographs were taken, I believe,
2 in February of 2010.

3 Q What did you learn about why the fish had
4 died?

5 A What the TVA representative said, he said
6 it was because of the cold water, the cold
7 winter that we had. But as long as I've lived
8 there, I've never ever seen anything like that.
9 And I've talked to a fisherman who said he has
10 fished these waters for 25 years and he had
11 never seen anything like that, that he had seen
12 a few here and there, and I have too, I have
13 seen a few here and there in the wintertime, but
14 never anything like that.

15 Q Did you see any newspaper articles about
16 the fish kill that happened, you know, in -- on
17 the river not just in your area?

18 A Yes.

19 Q Did the TVA guy give you or give your
20 husband a newspaper article about that?

21 A He gave us a -- it wasn't a newspaper
22 article. It was an article off of a bass
23 fishing site.

24 (Marked Exhibit 10.)

25 BY MR. SHERK:

1 Q Ms. Burnum, you've been handed Exhibit 10,
2 and I'll represent to you that that is a story
3 that we pulled off the knoxnews.com site about
4 the -- and it's entitled "Cold water responsible
5 for fish kill."

6 Do you see that document?

7 A Yes.

8 Q Did you read anything like this when you
9 were doing your researching on the Internet, or
10 did you read this article in the newspaper?

11 A I don't remember reading this exact
12 article, but I looked it up on the Internet.
13 After the TVA representative gave us the copy of
14 the Internet story, I looked it up on there.

15 Q Is this perhaps the story that you saw?

16 A No. It's not the exact same one, no.
17 This was off of a fishing site.

18 Q Okay. And the first sentence of this
19 reads,

20 "Environmental officials
21 say a fish kill at an East
22 Tennessee lake is the result of
23 cold temperatures and was not
24 caused by polluted waters."

25 Did I read that correctly?

1 A Yes.

2 (Marked Exhibit 11.)

3 BY MR. SHERK:

4 Q Ms. Burnum, you've been handed Deposition
5 Exhibit No. 11, and, like 10, this is a
6 newspaper article that we pulled off the
7 Internet and this is from a Knoxville paper.

8 Could this have been the article
9 that you found on the Internet?

10 A No.

11 Q This was not it either?

12 A No.

13 Q This one also, like the prior exhibit,
14 talks about cold waters being the cause of the
15 fish kill.

16 MS. FRY: Objection. The article
17 speaks for itself.

18 BY MR. SHERK:

19 Q You can answer.

20 A I haven't read the whole thing.

21 Q The second column of the first page of
22 Exhibit 11, there's a paragraph that starts out
23 with the word "although."

24 Do you see that?

25 A Yes.

1 Q It reads, "Although fears" --

2 MS. FRY: Objection. Speaks for
3 itself.

4 BY MR. SHERK:

5 Q It reads,

6 "Although fears of toxic
7 water may be a natural reaction
8 for residents considering the
9 location's history of pollution,
10 Tennessee Wildlife Resources
11 Agency spokesperson Dan Hicks
12 said this weekend's fish kill
13 can be attributed to natural
14 causes."

15 Did I read that correctly?

16 A Yes.

17 Q And the cause that the article points to
18 is the cold water?

19 A Yes. It says it can be. It doesn't say
20 it is attributed.

21 Q Okay.

22 A The last sentence of the next paragraph
23 reads, "This is a case where" --

24 MS. FRY: Same objection.

25 BY MR. SHERK:

1 Q

2 "This is a case where we
3 had an extended cold snap and
4 shad have difficulty surviving
5 in water when it gets below 42
6 degrees."

7 Did I read that correctly?

8 A Yes.

9 (Marked Exhibit 12.)

10 BY MR. SHERK:

11 Q Ms. Burnum, you've been handed Deposition
12 Exhibit No. 12, and I'll represent to you that
13 this is a document that we received from your
14 counsel that's Bates numbered 22 to 24.

15 Do you see that?

16 A Yes.

17 MS. FRY: Correction. It says 23.

18 MR. SHERK: Oh, 23 to 24, I'm sorry.

19 Q Have you had a chance to review Exhibit 12?

20 A Yes.

21 Q It looks to me as if this series of
22 e-mails pertains to the cleanup that we touched
23 upon a little bit earlier today?

24 A Yes.

25 Q Is that right?

1 It's kind of in reverse chronological
2 order which makes it a little bit confusing.

3 But let's look at the first page,
4 Bates No. 23. Down at the very bottom there's
5 an entry of February 26, 2010.

6 Do you see that?

7 A Yes.

8 Q Okay. It looks like this regards a
9 situation where the gentleman came out and
10 walked the shoreline looking for cenospheres?

11 A Yes.

12 Q Is that your understanding as well?

13 A Yes.

14 Q Okay. And then the -- the last entry of
15 it looks like March 2, 2010, up at the top of
16 the first page?

17 A Yes.

18 Q No. 23 deals with the situation when they
19 had concluded their walk and then kind of had a
20 plan for, you know, doing whatever remaining
21 work needed to be done; is that right?

22 A Yes.

23 Q This is from a gentleman named Pat
24 O'Connor to your husband; correct?

25 A Yes.

1 Q He reports that, you know,

2 "I spoke with the crews
3 that walked your cove
4 yesterday."

5 MS. FRY: Objection. Document speaks
6 for itself.

7 BY MR. SHERK:

8 Q

9 "They found very little
10 cenosphere that was visible on
11 the shoreline. We'll need to
12 return when the water comes back
13 up."

14 And that's kind of what you talked
15 about earlier today?

16 A Yes.

17 Q

18 "At that time, if there
19 are still cenospheres in the
20 pond" --

21 MS. FRY: Same objection.

22 BY MR. SHERK:

23 Q

24 -- "we'll launch small
25 boats in the pond, collect the

1 cenosphere in the boom, and then
2 vac the cenosphere out of the
3 pond."

4 Is that your understanding of what
5 the plan is going forward?

6 A Yes, according to this Patrick O'Connor.

7 Q And then he talks about replacing the boom
8 at the culvert with a heavier boom, which we may
9 have looked at in one of the photographs
10 earlier?

11 A Yes.

12 Q Okay. Great. I believe you testified,
13 Ms. Burnum, that you purchased your property in
14 1995; is that correct?

15 A Yes.

16 (Marked Exhibit 13.)

17 BY MR. SHERK:

18 Q And you have been presented with a
19 document entitled "Warranty Deed." It's dated
20 May 2, 1995.

21 Do you see that?

22 A Yes.

23 Q It has Bates Nos. 01 through 03, and I'll
24 represent to you that we received this document
25 from your counsel.

1 You and your husband bought an
2 undeveloped piece of property; correct?

3 A Yes.

4 Q Do you remember what the purchase price
5 was?

6 A \$20,000.

7 Q Okay. Did you have to do anything to the
8 property to get it ready to build a house on?

9 A Yes, had to do a lot. It had to be
10 blasted out with dynamite. It took -- it had so
11 much rock in it, that's why we got it cheap, got
12 the cheap price. It had so much rock, that for
13 two solid weeks, every single day, except for
14 Sundays, they blasted. And that was very
15 expensive.

16 Q I bet it was. You must have a really
17 great foundation now.

18 A Yes.

19 Q Lodged in solid rock.

20 A Yes.

21 Q Was there anything else besides the
22 blasting out of the area for the basement of
23 your house that you needed to do to develop your
24 lot such that you could build a house on it?

25 A Yeah. We had to clear the trees out and,

1 you know, fix the driveway.

2 Q And you had to construct a driveway up to
3 your house?

4 A Yes.

5 Q Was that done after the house was built or
6 as a part of building it?

7 A It's part of building it. They had to put
8 the driveway in to be able to get up in there.

9 Q Okay. And the house was completed I
10 believe you said in 1999?

11 A Yes.

12 Q Did you change the plans at all of your
13 house as it was being built because of your
14 husband's injury and illness?

15 A No, I did not. But now going back I wish
16 I would have.

17 Q Is the master bedroom on the first or
18 second floor?

19 A Second.

20 Q Does he have trouble getting -- your
21 husband, does he have trouble getting up there?

22 A Occasionally when he's hurting a lot he
23 does.

24 Q If you had it to do over again, what would
25 you do in terms of reconfiguring how your house

1 is laid out?

2 A I would probably keep the main living
3 areas on the bottom floor and switch the kids'
4 bedrooms upstairs.

5 Q Are both boys' bedrooms on the main floor
6 now?

7 A The main floor being the first or the
8 second?

9 Q The first.

10 A No. The first is just like a recreation
11 area.

12 Q So their bedrooms are on the second floor?

13 A They're both upstairs.

14 Q Where is your bedroom?

15 A Upstairs. Everything -- the kitchen,
16 everything, is upstairs. The only thing
17 downstairs is part of the garage and den area
18 and the computer room and then the spare bedroom
19 and a bathroom.

20 Q Did you ever have an appraisal done of
21 your house?

22 A I did for insurance purposes and tax
23 purposes.

24 Q I believe that we received an appraisal
25 dated about 1999. Does that ring a bell to you?

1 A Could possibly have been '99.

2 Q That would have been about the time that
3 the house was built; correct?

4 A Yes.

5 Q Okay. Have you had your house appraised
6 since 1999?

7 A No, not other than by the county
8 government.

9 (Marked Exhibit 14.)

10 BY MR. SHERK:

11 Q Ms. Burnum, you've been handed Exhibit
12 No. 14. I'll represent to you this is a
13 document entitled "Taxpayer's Copy State of
14 Tennessee Property Tax Receipt." It bears the
15 Bates No. 26. It's a document we received from
16 your counsel.

17 Do you see that?

18 A Yes.

19 Q Okay. It lists -- I'm just going to look
20 at the -- so at the top, tax year 2009.

21 Do you see that?

22 A Yes.

23 Q It lists the appraised value of the
24 improvement as \$41,600.

25 Do you see that?

1 A Yes.

2 Q And then the property value was \$176,300?

3 A Yes.

4 Q With a total appraised value of \$217,900;
5 correct?

6 A Yes.

7 Q And this was in connection with a tax bill
8 that you had to pay?

9 A Yes.

10 Q Did you in any way challenge or appeal
11 this valuation of your house and property?

12 A No, not on this one.

13 (Marked Exhibit 15.)

14 BY MR. SHERK:

15 Q Ms. Burnum, you've been handed Deposition
16 Exhibit No. 15. And I'll represent to you this
17 is a document entitled "Tennessee Assessment
18 Change Notice," and it's Bates numbered 25.

19 Do you see that?

20 A Yes.

21 Q In kind of the middle of the page on the
22 left-hand side there's a line that reads
23 "Appraisal as of January 1, 2010."

24 Do you see that?

25 A Yes.

1 Q And underneath that it says "Appraised
2 Value \$326,100."

3 A Yes.

4 Q Was that the appraised value of your house
5 for the tax year of 2010?

6 A It was. And it has dropped.

7 Q Since this document?

8 A Since this document was made, yes.

9 Q What is it now?

10 A They reduced it to \$265,100.

11 Q Okay. And how did that come about?

12 MS. FRY: Object to the extent that
13 it's spousal privilege.

14 But you can answer if you know.

15 THE WITNESS: Okay. My husband
16 called over to the property assessor's office
17 and talked to them about it.

18 BY MR. SHERK:

19 Q Okay. And he -- looks like he was
20 successful in -- I mean, I'm assuming he was
21 trying to get them to reduce the value?

22 A Yes.

23 Q Was there a hearing or anything like that
24 that he had or --

25 A He did not appeal it in writing, no.

1 Q Okay. It was just a phone call?

2 A Yes.

3 Q Is there any documentation that you have
4 of the reduced appraised value of your property
5 for the 2010 tax year?

6 A Yes, I have that at home.

7 Q Okay.

8 A I sent in a copy of it to the attorneys.

9 Q Oh, okay.

10 If you get a chance to send that
11 over to us, that would be great.

12 MS. FRY: I'll get it to you.

13 MR. SHERK: Thank you.

14 Q How much do you believe that your house is
15 worth now?

16 A I'm really not sure what it's worth now.
17 I feel like it's not -- that it has not
18 increased in value from 2008 and 2009.

19 Q If you were to put it on the market now,
20 what would you price it at?

21 A I'm not sure. I'd have to get an
22 appraisal and a real estate person to help me
23 with that.

24 Q Do you think your house is worth less
25 today than it was in the summer of 2008?

1 A Yes.

2 Q How much less do you think it's worth?

3 A I don't know a monetary value. I just
4 know that I cannot sell it as a whole package as
5 I could before. I can't include fishing,
6 swimming, boating with it on a polluted lake.

7 Q Have you had a real estate agent or a real
8 estate appraiser value your house since the
9 spill?

10 A No.

11 Q So your feeling about value is your
12 personal feeling and opinion about it?

13 A I feel like within the next few years as
14 we age and my husband gets older and he will not
15 be able to climb up and down the steps, I feel
16 like we will be selling it, you know, probably
17 soon, and I feel like the value has gone down
18 since the ash spill.

19 Q Okay. There's no -- there's no port of an
20 appraiser or real estate person that you look to
21 for that belief, but that is your personal
22 opinion; is that right?

23 A Yes, that's my opinion and several of --
24 people that have been in the newspaper and the
25 media talking about the reappraisal amounts,

1 that's also their opinions.

2 Q Okay. But no one has come out to your
3 property and done an evaluation since the spill?

4 A No.

5 Q If you were thinking about selling the
6 house, when would the target range be?

7 A Probably next five years.

8 Q Would your -- your kids' school system
9 play into, you know, your moving, the new
10 location that you would want, that kind of
11 thing?

12 A Yes, it does. That's one reason I haven't
13 put it up for sale yet. I don't want to take
14 them out of the school. I still want to live on
15 the lake, it's just I don't want to live on
16 Watts Bar Lake.

17 Q Where would you want to relocate on the
18 lake?

19 A I'm not sure. I've not looked at property
20 for sale, but somewhere that's not polluted.

21 Q Would you want, then, to select a property
22 that's farther south of the Kingston facility?

23 A No, I don't think so. Probably north.
24 Maybe Norris or Tellico.

25 Q Oh, you'd go to a different lake? Norris

1 Lake is its own lake; correct?

2 A Yes.

3 Q You wouldn't be on the Tennessee River
4 anymore?

5 A I don't think so.

6 (Marked Exhibit 16.)

7 BY MR. SHERK:

8 Q Ms. Burnum, you have you've been handed
9 Deposition Exhibit No. 16. This is a document
10 we received from your counsel, Bates numbered
11 27. This looks like it's a page regarding your
12 homeowner's insurance with Tennessee Farmers
13 Mutual Insurance Company; is that correct?

14 A Yes.

15 Q It lists toward the middle of the page
16 your house limit of insurance as \$322,000;
17 correct?

18 A Yes. Yes.

19 Q Have you increased or decreased the amount
20 of coverage on your home since the spill?

21 A No.

22 Q It's remained the same?

23 A Yes. The only increase, if there was one,
24 it was done by the insurance company.

25 Q Okay.

1 A And up at the top it states that the
2 policy period is November 6, 2009, to November
3 6, 2010; is that correct?

4 A Yes.

5 Q Okay. Ms. Burnum, you've testified this
6 morning that you keep up with events related to
7 the spill and the cleanup by reading the
8 newspapers?

9 A Yes.

10 Q Watching television?

11 A Yes.

12 Q And from Internet news coverage?

13 A Yes.

14 Q From talking to neighbors and friends?

15 A Uh-huh, yes.

16 Q Do you have any other sources of
17 information that you've looked to to get
18 information about the spill or the cleanup
19 operations?

20 A Only the contact we've had with the TVA
21 representatives about the cleanup around our
22 property.

23 Q And that's what we already talked about
24 before; correct?

25 A Yes.

1 Q I guess in addition to you've made
2 approximately five trips up to the Kingston
3 facility to look at the site itself?

4 A Yes.

5 Q Are you aware of the report called the
6 Public Health Assessment that was done by the
7 Tennessee Department of Health?

8 A Yes.

9 Q Do you know the conclusions that the
10 Tennessee Department of Health reached about the
11 ash?

12 A Yes.

13 Q Okay. What were those?

14 A That there was no immediate health threat.

15 Q I believe you also know about the
16 screening study that was performed by ORAU and
17 Vanderbilt?

18 A Yes.

19 Q ORAU being Oak Ridge Associated
20 Universities?

21 A Yes.

22 Q And I believe your testimony was that your
23 parents participated in the ORAU study?

24 A Yes.

25 Q How was it that they became involved in

1 the ORAU screening study?

2 A They were worried because we had so much
3 of the ash and the cenospheres right in front of
4 the houses. And I don't know, you can't see on
5 the map really, but their house is right here,
6 and all of this was just filled at times with
7 ash. And they were just worried, and they
8 wanted to see if the study would do anything.

9 Q Do you know how they learned about the
10 opportunity to become involved in the ORAU
11 screening study?

12 A I don't know for sure. But I think it
13 would be through the media.

14 Q Did you get a letter in the mail inviting
15 your -- or inviting you and your family to
16 participate in the ORAU screening study?

17 A No.

18 Q Did your parents tell you in advance that
19 they were going to participate in the screening
20 study?

21 A Yes.

22 Q Did you think about participating yourself
23 in the ORAU screening study?

24 A Yes, I thought about it.

25 Q Did you think about that on behalf of your

1 husband and your children as well?

2 A Yes.

3 Q Why did you decide not to participate in
4 that study?

5 A My attorney advised me against it.

6 Q Do you have any second thoughts today
7 about not being involved in the study?

8 A I don't really have second thoughts. I
9 mean of course I hope that I'm healthy, and I
10 wish that I knew for sure that I was. But I
11 feel like my attorneys know what's best for me
12 to do.

13 Q Do you have any current plans to have
14 yourself or your children or your husband
15 screened for the presence of any hazardous
16 substances in your body as a consequence of the
17 exposure to fly ash?

18 A I don't have any immediate plans, but I'll
19 definitely be open to it in the future.

20 Q Is your level of concern not yet to the
21 point where you would make arrangements on your
22 own to have screening tests done for you and
23 your family members?

24 A I just wish that there was other avenues
25 to go to get the screening instead of just the

1 one from the ORAU.

2 Q What kind of opportunity would you be
3 envisioning?

4 A Like possibly some independent doctors
5 that are not being funded by TVA, that they
6 conduct the study.

7 Q Do you think the scientists at ORAU and
8 Vanderbilt were not impartial in the study that
9 they conducted?

10 A I have doubts.

11 Q Why is that?

12 A Because of who is funding it.

13 Q You think that they would not provide the
14 citizens of Tennessee with accurate information
15 because of the source of their funding?

16 A I think it's possible because that's how
17 the dike failure came about, they hired
18 engineers to say that the dike was fine, and
19 then you see what happened, the spill resulted.

20 Q How did your parents react when they
21 received the results of the ORAU study?

22 A They told me before they even received the
23 results that they didn't expect to really get
24 anything out of it.

25 Q Do you know what tests they -- what tests

1 were performed on them as part of the ORAU
2 study?

3 A I don't know every test that was. I just
4 know they had x-rays and blood work.

5 Q Would you be envisioning anything
6 different in terms of tests if you could design
7 a screening program for yourself and your
8 family?

9 A I'm not sure. I don't know.

10 Q Do you think that there is a kind of
11 conspiracy involving TVA and the ORAU and
12 Vanderbilt when it comes to the results of the
13 screening study that was performed?

14 A I don't think there's a conspiracy to, you
15 know, change the results or anything like that.
16 I just don't fully trust them because, like I
17 said, they said the dike was okay and it wasn't,
18 so how am I supposed to believe that the health
19 results are fine when I don't know for sure.

20 Q We talked a little bit earlier today about
21 fly ash that was in the water and on the bank of
22 the reservoir water by your house; right?

23 A Yes.

24 Q Okay. Is that waterborne fly ash the fly
25 ash that you believe may have caused you to be

1 exposed to hazardous substances?

2 A Yes.

3 Q How did that fly ash get from where it
4 rests on the shore to you?

5 A I believe it was tracked in. Like I said,
6 we've got tons of wildlife, and I believe it was
7 tracked in. It could have dried out and blown
8 in.

9 Q Okay.

10 A Any time I'm around the water or around
11 the banks, I could be stepping in it. My son --
12 I was working out in the yard one day, and I
13 turned my back, and the next thing I knew he was
14 in the water. And I told him, I said, Don't get
15 above your knees deep in the water. Well, the
16 next thing I know he said, Mommy, there's stuff
17 floating in the water. And I looked, and he had
18 stirred a lot of the cenospheres up and ash, and
19 it was floating all around him.

20 Q And then what happened?

21 A I made him get out of the water, wash off
22 with a water hose, and go take a shower.

23 Q So the wildlife around your house may have
24 tracked some ash up into your yard?

25 A I believe so because, like I said, with

1 the fish kill there were several, you know,
2 parts of fish up in my driveway, up in the yard,
3 where animals and I guess birds brought it in up
4 higher.

5 Q Have you ever taken any measurements or
6 had any samples taken --

7 A No.

8 Q -- of those animal parts or anything like
9 that?

10 A No.

11 Q Or of any of the soil in your yard?

12 A No.

13 Q You also said that the wind may have blown
14 dry ash that was down by the water?

15 A Yes.

16 Q And up into your yard where you may have
17 come in contact with that?

18 A Yes.

19 Q Has anyone taken any measurements of the
20 air or anything like that at your property?

21 A Not that I know of unless when the TVA
22 representatives came out, I'm not sure. They
23 didn't tell me that they did.

24 Q Do you think that there has been exposure
25 from the emissions from the stacks at the TVA

1 facility?

2 A It's possible.

3 Q Is there any -- you know, any scientific
4 evidence that you can point to or measurements
5 that have been taken that would support that?

6 A I can't quote anything directly. I know
7 my nephew, before any of this ever happened, he
8 did a report on TVA's steam plant, and he was
9 telling me about research he had done about how
10 polluted the air was and how we were one of the
11 most polluted areas around.

12 Q Where does he go to school?

13 A At that time he went to Philadelphia
14 Middle School.

15 Q He was in 7th or 8th grade?

16 A Yes.

17 Q And this was a report for one of his
18 classes there?

19 A Yes.

20 Q Okay. So how old is he, 13, 14?

21 A Yes.

22 Q Have you spent any time in the -- in the
23 lake yourself since the spill?

24 A No.

25 Q Haven't gone swimming?

1 A No.

2 Q Have you floated around in the water since
3 the spill?

4 A No.

5 MS. FRY: Asked and answered.

6 BY MR. SHERK:

7 Q I believe you testified you've been on
8 your boat a couple of times since the spill this
9 summer?

10 A This summer, yes.

11 Q But prior to that, no boating experiences
12 on the lake or river?

13 A No. I went two times in 2009 and two
14 times in 2010.

15 Q And that's it?

16 A Yes.

17 Q As a part of your regular medical care,
18 Ms. Burnum, do you receive any screening tests?

19 A Such as?

20 Q Well, does someone take your blood
21 pressure?

22 A Yes.

23 Q Okay. Do they monitor cholesterol?

24 A Yes.

25 Q Do they do blood work?

1 A Yes.

2 Q Do they do a urine test?

3 A Yes.

4 Q Mammographies, Pap smears, that type of
5 thing?

6 A Yes. Not mammography yet, but the other
7 thing, yes.

8 Q Any other tests that you regularly receive
9 from your physician?

10 A No.

11 Q EKG?

12 A No.

13 Q Or stress test?

14 A No.

15 Q Probably too young for any of those
16 things.

17 Are you on any medications now?

18 A No.

19 Q Do you take a diet supplement?

20 A No. I do occasionally take a calcium
21 pill.

22 Q Not on an everyday basis?

23 A Not -- maybe three or four times a week.

24 Q Do you take aspirin regularly?

25 A No.

1 Q We talked about the communications that
2 you had with TVA representatives about the
3 cleanup of your -- of the areas by your house;
4 correct?

5 A Yes.

6 Q Okay. Have there been any other
7 communications that you've had with TVA besides
8 the ones we've already talked about?

9 A No, not that I can think of at this time.

10 Q All right. Has your husband had any
11 communications with TVA that we haven't talked
12 about already today?

13 A The only thing is when we had the -- the
14 fish kill, he did call then and talked to them
15 about that.

16 Q Okay. Have you or your husband ever been
17 interviewed about TVA or the ash spill?

18 A Interviewed by who?

19 Q Members of the press, for example.

20 A No.

21 Q Have you ever attended a meeting about TVA
22 with other members of the community?

23 A No. Every time they've had one scheduled,
24 I've had things that I couldn't get away from.

25 Q Other than the communications that you

1 made to TVA about cleanup efforts around your
2 property, have you made complaints about TVA to
3 any source?

4 A Any source like the media? No.

5 Q Have you ever made complaints or comments
6 about TVA to a governmental agency like the EPA?

7 Q Tennessee Department of Health?

8 A No.

9 Q TDEC?

10 A No.

11 Q Have you ever made a comment or complaint
12 about TVA to a state senator?

13 A No.

14 Q Or member of the Senate or the House of
15 Representatives representing the state of
16 Tennessee?

17 A No. That is why I hired attorneys, so
18 they can take care of my complaints.

19 Q Okay. If I can have a few minutes to look
20 at my notes, I think I'm about ready to wrap it
21 up. My colleagues may have some questions, but
22 let me just go through everything.

23 MS. FRY: Do you want to take a
24 break?

25 (Recess.)

1 BY MR. SHERK:

2 Q Ms. Burnum, we're back on the record, and
3 we are aiming to wrap this up. I've been
4 through my notes, and I just have a few
5 follow-up questions, and then I'll turn it over
6 to my colleagues for whatever remaining
7 questions they may have.

8 Okay?

9 A Okay.

10 Q Do you currently have a mortgage on your
11 house?

12 A No.

13 Q You were able to pay your house off in
14 full?

15 A Yes.

16 Q Did you do that at the time that you
17 completed your house?

18 A No.

19 Q When was that house paid off in full?

20 A I believe it was in 2001.

21 Q Okay. What was the total cost of your
22 house?

23 A It didn't have a purchase price. It went
24 through stages of building, so I'm not sure.

25 Q Around \$300,000?

1 A It wasn't that much, no.

2 Q Closer to 200,000?

3 A Yes. We did a lot of the work ourselves.

4 Q You had a contractor that permitted you to

5 pitch in and do some of the --

6 A Yes. Mostly -- mainly me, but yes.

7 Q As I understand it, you stepped away from

8 your work life in around 1995?

9 A Yes.

10 Q And your husband was disabled in 1996?

11 A Yes.

12 Q Is there a source of income for you as a

13 family that you've had since his injury?

14 A Yes.

15 Q What's that?

16 A He gets Social Security Disability and

17 also Workers' Comp.

18 Q Okay. A Workers' Comp settlement?

19 A Yes.

20 Q Or does he just get monthly payments?

21 A He gets weekly payments.

22 Q Because he's a member of a union, does he

23 receive any benefits from the union also?

24 A No.

25 Q Okay. Is there any other business that

1 either you or your husband are involved in that
2 is a source of income for you?

3 A Nothing -- I don't know if you could
4 consider my dog -- breeding my dogs a business,
5 I don't know. We do that and sell the puppies.

6 Q You've talked about your use of the lake
7 and the river before the spill.

8 How often would you go fishing
9 before the spill?

10 A Before the spill, we would start
11 fishing -- I would start fishing in the spring
12 and -- right in front of my house, it was a
13 really good spot, and probably two or three
14 times a week up until it got really hot in the
15 summertime. And then we would take a break
16 because it would be so hot and the fish would
17 stop biting, and then we'd start back up again
18 in the fall.

19 Q Okay. So that may be 20 times a year?

20 A Approximately, yes.

21 Q And have you fished since the spill?

22 A Yes. One time.

23 Q Okay. You mentioned that your house was
24 damaged by Hurricane Ivan; correct?

25 A Yes.

1 Q Because water made its way through the
2 windows?

3 A Yes.

4 Q Did you make a homeowner's claim for that
5 damage to your house?

6 A Yes.

7 Q Have you made any other homeowner's
8 claims --

9 A Not that I can remember.

10 Q -- you know, for a leaky roof or a fire
11 damage or anything like that?

12 A No.

13 Q Okay. Do you believe your children have
14 sustained any form of personal injury as a
15 consequence of exposure to fly ash?

16 A I'm not sure about their long-term health
17 effects.

18 Q You don't think they have anything today,
19 though?

20 A I can't be sure.

21 Q So they may have injuries, you just don't
22 know what they are?

23 A It's possible.

24 Q Okay. Is the same true for your husband?

25 A Yes.

1 Q He may have an injury related to fly ash
2 but you don't know?

3 A Right.

4 Q I think that's all I've got.

5 EXAMINATION

6 BY MS. WILLIAMS:

7 Q Ms. Burnum, my name is Laura Williams, I'm
8 here on behalf of GeoSyntec Consultants.

9 Have you heard of GeoSyntec
10 Consultants?

11 A Yes.

12 Q How have you heard of them?

13 A I've heard of them associated with the TVA
14 dike failure.

15 Q What do you know about GeoSyntec?

16 A From what I understand, they are an
17 engineering firm that TVA contracts with.

18 Q Do you know anything else about GeoSyntec?

19 A I think they've worked with them in the
20 past over previous dike failures.

21 Q And where did you get that information?

22 A I talked to my attorneys some about it.

23 Q Did you get information about GeoSyntec
24 from any other source?

25 A Just I've -- I've not really researched

1 GeoSyntec.

2 Q Have you seen any documents that have to
3 do with GeoSyntec?

4 A No.

5 Q Have you spoken to anyone from GeoSyntec?

6 A No.

7 Q Do you have any knowledge of GeoSyntec
8 that's not related to the TVA incident?

9 A No.

10 Q And the only knowledge you have you
11 received from your attorney?

12 A Yes.

13 Q Did you learn this knowledge in
14 preparation of your deposition?

15 A Yes.

16 Q Were you aware of anything to do with
17 GeoSyntec before you began preparing for your
18 deposition?

19 A I had heard the name before.

20 Q And where had you heard it at that point?

21 A In the media, I assume.

22 Q Do you remember reading anything specific
23 in the media?

24 A No. I just remember the name.

25 Q Mr. Sherk may have addressed this.

1 You know you have the right to read
2 and sign your deposition when it's been
3 transcribed. Would you like to take advantage
4 of that right? We just always ask. I just want
5 to make sure you're aware of that right. If you
6 want to take advantage of it, then I'll be sure
7 to note it and make sure it happens.

8 A Yes.

9 Q Is there anything additional about
10 GeoSyntec that you want to add?

11 A I just feel like they had a part in the
12 role of the coal ash disaster because they had
13 signed off and said the dikes were okay and
14 obviously they were not.

15 Q And where does that feeling come from?

16 A That they were not okay? Because the ash
17 is at my house now.

18 Q And I may be being repetitive.

19 But where did you learn this belief
20 that they had a role in signing off on the dike
21 failure?

22 A Talking to my attorneys about the role
23 that your company had.

24 Q Okay. That's all I have. Thank you.

25 ///

1 EXAMINATION

2 BY MR. HOWELL:

3 Q Ms. Burnum, good afternoon. My name is
4 Dean Howell, I represent WorleyParsons. I
5 appreciate your patience in answering all the
6 questions today. I'll try to be as brief as I
7 can and move through this fairly quickly. I did
8 have a couple of follow-up questions.

9 Your husband, I believe you
10 testified, had a Workers' Compensation claim?

11 A Yes.

12 Q Okay. Do you know who was his attorney
13 for that Workers' Comp claim?

14 A Roger Ridenour.

15 Q Do you know where that Workers' Comp claim
16 was filed?

17 A It went to court here in Roane County.

18 Q It went to court in Roane County?

19 A Yes.

20 Q Okay. Do you remember what judge handled
21 that case?

22 A No.

23 Q Was there a trial?

24 A Yes.

25 Q Do you know when the trial took place?

1 A I don't know the exact date. It was in
2 the mid 1990s, mid to late 1990s.

3 Q I'm sorry?

4 A Mid to late 1990s.

5 Q Did your husband testify at the trial?

6 A Yes.

7 Q Did you testify at the trial?

8 A Yes.

9 Q Do you remember if at that trial there was
10 a court reporter like there is now who was
11 taking down what was said at the trial of that
12 Workers' Comp claim?

13 A No, I don't remember.

14 Q You don't remember?

15 A No.

16 Q And did the -- was the Workers' Comp claim
17 settled, or did the judge render a decision?

18 A I believe the judge rendered a decision.

19 Q And do you know what that decision was?

20 A They were ordered to pay him Workers' Comp
21 for as long as he couldn't work.

22 Q And when you say they, who is they?

23 A Bechtel Jacobs -- I mean, not Bechtel
24 Jacobs, I'm sorry. Lockheed Martin.

25 Q Was there a specific amount that the judge

1 ordered Lockheed Martin to pay?

2 A No, not that I'm aware of. It was just a
3 weekly thing he gets.

4 Q And those weekly payments have continued?

5 A Yes, they've continued. They have not
6 changed. They've not gone up with inflation or
7 cost of living. They're the same.

8 Q How much are those weekly payments?

9 A They're \$415.87 a week.

10 Q Do you remember, by chance, who the
11 attorney was who represented Lockheed Martin in
12 that case?

13 A No. I was only in the courtroom a very
14 short period of time.

15 Q Okay. How long did the trial last?

16 A One day.

17 Q I believe this was touched on, but I just
18 wanted to clarify.

19 Have you ever written or complained
20 about coal ash, fly ash, to any of Tennessee's
21 senators?

22 A No.

23 Q Have you ever complained or written about
24 fly ash to your United States member or the
25 member who represents your area in the United

1 States House of Representatives?

2 A No.

3 Q Do you know who that member is?

4 A For which one?

5 Q Your member of the United States House of
6 Representatives.

7 A I know I've got Lincoln Davis and --

8 Q All right. Have you written or complained
9 to anyone at any government agency about fly
10 ash?

11 A No.

12 Q Have you complained to anyone -- your
13 member in the Tennessee House of Representatives
14 or your member in the Tennessee Senate?

15 A I believe it's Dennis Ferguson.

16 Q Have you written to or complained to that
17 person about fly ash?

18 A No. I hired attorneys to take care of my
19 complaint.

20 Q I understand that. This Mr. Ferguson, is
21 he your member in the House or the Senate?

22 A I'm not sure. I don't keep up with the
23 politics, but I think the House.

24 Q Okay. How big is your dock at your house?

25 A My dock?

1 Q Your dock, yes, ma'am.

2 A Okay. I don't know the exact

3 measurements. It's not a huge dock. It's

4 medium size.

5 Q Okay. Is it as big as this table?

6 A Yes. It's longer and wider.

7 Q Longer and wider?

8 A Yes.

9 Q And this table is I'm guessing 12- to

10 15-feet long.

11 Would you agree with that?

12 A Yes.

13 Q Along -- or scratch that.

14 When you have done boating, you have

15 gone out into your cove and into the main

16 channel?

17 A Yes.

18 Q Okay. And when you go out --

19 A I don't. My cove -- my big boat would not

20 fit into the cove.

21 Q Sure. Because of the county road?

22 A Yes.

23 Q But you've taken your big boat out into

24 the main channel?

25 A Yes.

1 Q What kind of boat is your big boat?
2 A It is a Lowe deck boat.
3 Q And who manufactures that?
4 A It's a Lowe, L-o-w-e.
5 Q When you go out and boat in your Lowe deck
6 boat, do you see other properties along the
7 river, the main channel, that have docks?
8 A Yes.
9 Q All right. Do you see properties that do
10 not have docks?
11 A Yes.
12 Q Do you -- of the properties that have
13 docks, are some of those docks bigger than
14 yours?
15 A Yes.
16 Q Are some of those docks smaller than
17 yours?
18 A Yes.
19 Q When you -- there's been testimony today
20 that you have done some fishing and swimming
21 through the years. When you do fishing and
22 swimming, do you do them from your dock?
23 A I have in the past, before the ash spill.
24 Q Before the ash spill?
25 A Yes.

1 Q Okay. Would you fish or swim from
2 someplace other than the dock?

3 A I have in the past, yes.

4 Q Okay. There was a question about the
5 layout of your house. And the master bedroom, I
6 understand that's on the second floor level?

7 A Yes.

8 Q Okay. How many steps is it from the floor
9 below up to the second floor to get to the
10 master bedroom?

11 A I think there's about 12.

12 Q And when you pull up to your house and you
13 enter -- or scratch that.

14 When you pull up to your house, do
15 you have a garage?

16 A Yes.

17 Q You park in that garage?

18 A Yes.

19 Q Okay. When you -- is there a door from
20 the garage into the house?

21 A Yes.

22 Q And the garage is connected to the house?

23 A Yes.

24 Q Okay. When you enter from the garage,
25 what level of the house are you on?

1 A On the first floor.

2 Q Okay. So every time you or your husband
3 would enter the house from the garage, in order
4 to get up to the master bedroom or the kitchen,
5 you have to go up those 12 steps each time?

6 A Yes. That's one reason in the future I'm
7 looking to sell it, for his sake.

8 Q Do you know who WorleyParsons is?

9 A I just know a very small, limited amount.

10 Q What do you know about WorleyParsons?

11 A I know that they are an engineering firm
12 that contracts with TVA.

13 Q And where did you obtain that information?

14 A It was information that I learned from my
15 attorneys.

16 Q Okay. Your knowledge that WorleyParsons
17 is an engineering firm that has had dealings
18 with TVA, is that the extent of your knowledge
19 about WorleyParsons?

20 A Pretty much, yes.

21 Q Is there anything else that you know about
22 WorleyParsons other than what we just discussed?

23 A As far as I understand, they've worked
24 with TVA before, and -- on a couple other times
25 that they've had the dike blowouts.

1 Q And that information that you just stated
2 in your answer to my previous question, where
3 did that information come from or where did you
4 get that information? Let me ask you that.

5 A From my attorney.

6 Q Before you retained your counsel, had you
7 ever heard of WorleyParsons?

8 A I think I've heard the name before, yes.

9 Q Okay. Where did you hear the name?

10 A I'm not sure. It was probably in the
11 media.

12 Q Do you remember what specific media source
13 that you heard the name from?

14 A No.

15 Q Do you remember whether that source was on
16 the television, on the radio, newspaper or
17 Internet?

18 A No. I just recognize the name.

19 Q Have you ever had any conversations or
20 discussions with anyone from WorleyParsons?

21 A No.

22 Q Have you ever had any correspondence of
23 any kind with anyone from WorleyParsons?

24 A No.

25 Q Can you tell me why you have sued

1 WorleyParsons?

2 A Because I believe that they had a role in
3 the coal ash spill.

4 Q Where are -- let me ask you this.

5 From what source did you derive that
6 knowledge or that belief?

7 A I derived it from myself because I know
8 that they were the engineers that were hired to
9 look at the dike and the storage facility and
10 make sure it was adequate. And it wasn't.

11 Q Did you learn that information from your
12 attorneys?

13 MS. FRY: Objection.

14 Q No, that's how I feel about it.

15 BY MR. HOWELL:

16 Q Have you reviewed any documents from
17 WorleyParsons?

18 A No.

19 Q Have you personally reviewed any of the
20 work or any documents regarding any of the work
21 that WorleyParsons did?

22 A No.

23 Q Is your knowledge of WorleyParsons limited
24 to the matters at issue in this lawsuit?

25 A Yes.

1 Q When -- let me ask you this.

2 Did you read the Consolidated Class
3 Action Complaint?

4 A I looked through it, yes.

5 Q Was that yesterday when you met with your
6 counsel?

7 A Yes.

8 Q Okay. That was the first time you looked
9 through it?

10 A Yes.

11 Q Okay. Was that the first time that you
12 saw the allegations against WorleyParsons?

13 A Yes.

14 Q Have you done any research on your own
15 about WorleyParsons?

16 A No.

17 Q What did your parents do for a living?

18 A My mother, she stayed home with the kids
19 part of the time, and the other part she worked
20 in a factory.

21 Q What factory did she work at?

22 A She worked in a hosiery mill in Harriman.

23 Q And your father?

24 A He was a driver and salesman for a bread
25 company.

1 Q Do you know which bread company he worked
2 for?

3 A It switched hands several times. I don't
4 know which one it was at the end.

5 Q Okay. Do you remember any of the ones
6 that it was while he was working for them?

7 A For most of the time that he was working,
8 it was Sunbeam, and then it switched to Kerns,
9 and then I think it switched again.

10 Q So you don't know what it was at the end
11 when he retired?

12 A I think it was Kerns, but I'm not 100
13 percent sure.

14 Q There was some testimony that you
15 mentioned -- you used the term "hired
16 engineers." Do you know what you meant by that?

17 A Can you repeat the sentence?

18 Q I have down in my notes that you used the
19 term "hired engineers," and I'm just curious
20 what you meant by "hired engineers."

21 A I think I must have meant that they were
22 contracted out through TVA.

23 Q Have you seen any documents that any hired
24 engineers produced or used during their work
25 with TVA?

1 A No.

2 Q Do you know specifically what any of these
3 hired engineers did for TVA?

4 A I don't know specifics. I just know the
5 general overview of it.

6 Q How often do you breed the -- your dogs?

7 A About once, sometimes twice a year.

8 Q Is that -- do you breed both the German
9 shepherds and the Jack Russells?

10 A Only the German shepherds.

11 Q Your German shepherds, are they both
12 females?

13 A A female and a male.

14 Q How much do you sell those German shepherd
15 puppies for -- or scratch that.

16 What was the sale price for the last
17 litter that you had?

18 A The last litter, I sold all three to --
19 she only had three, and I sold all three to one
20 person, and he paid \$850 for all three. I
21 normally sell them for about \$300, \$325.

22 Q A piece?

23 A Yes.

24 Q And -- what is an average litter for
25 German shepherds?

1 A Probably about seven -- six to seven.

2 Q So this litter with three was unusually
3 small?

4 A Yes. Yes.

5 Q How far are -- scratch that.

6 How far is your property from the
7 Watts Bar Nuclear Plant?

8 A I've not measured the distance. By water,
9 boating time, probably 20 minutes.

10 Q 20 minutes by boat?

11 A Yes.

12 Q Have you ever driven to Watts Bar Dam or
13 over to where the nuclear plant is?

14 A Yes.

15 Q How long does it take you to drive there?

16 A Probably about -- no more than 20 minutes.

17 Q In the area where you live, are there
18 signs for evacuation routes in the event
19 anything were to happen at Watts Bar?

20 A Not in my area, no.

21 Q Okay. Were you aware when you built your
22 house where it is about the existence of Watts
23 Bar?

24 A Yes. But my house is not in an evacuation
25 route.

1 Q Okay. Can you see the Watts Bar Nuclear
2 Plant, the cooling towers, can you see those
3 from your house?

4 A No.

5 Q When you get into the main channel on your
6 big boat, can you see those cooling towers?

7 A In the main channel right in front of my
8 house?

9 Q Yes, ma'am.

10 A No.

11 Q About how far down the river do you have
12 to go on your boat before you would see those
13 cooling towers?

14 A Probably a mile.

15 Q So not very far?

16 A Not from the water. And they're off in a
17 distance, they're not up close.

18 Q Sure. But you can see them when you get
19 out on the water and go down a little bit?

20 A Yes.

21 Q What is the main road that you would have
22 to take to get to your house?

23 A Coming which direction?

24 Q Any direction.

25 A Highway 304.

1 Q And does that refer -- does it have a
2 name?

3 A River Road.

4 Q How far are you from Spring City -- or
5 scratch that.

6 How far is your property from Spring
7 City?

8 A I couldn't tell you. I don't ever go to
9 Spring City.

10 Q If I remember correctly, that's where you
11 get your water?

12 A Yes.

13 Q Drinking water?

14 A Yes. Comes from Watts Bar Utility
15 District. And I was told it comes from Spring
16 City.

17 Q All right. Thank you very much for your
18 patience. I appreciate you taking the time to
19 answer my questions.

20 MR. SHERK: Ms. Burnum, I know I
21 speak on behalf of all the defendants and thank
22 you for your time and patience with us today.
23 We wish you the best. Thank you. I have no
24 more questions.

25 (Deposition session concluded at 2:26 P.M.)

1 REPORTER'S CERTIFICATE

2 I certify that the witness in the
3 foregoing deposition, DEBRA BURNUM, was by me
4 duly sworn to testify in the within-entitled
5 cause; that the said deposition was taken at the
6 time and place therein named; that the testimony
7 of said witness was reported by me, a Shorthand
8 Reporter and Notary Public of the State of
9 Tennessee authorized to administer oaths and
10 affirmations, and said testimony, pages 1
11 through 194 was thereafter transcribed into
12 typewriting.

13 I further certify that I am not of
14 counsel or attorney for either or any of the
15 parties to said deposition, nor in any way
16 interested in the outcome of the cause named in
17 said deposition.

18 IN WITNESS WHEREOF, I have hereunto
19 set my hand the 24th day of September, 2010.



25 Katherine Gale, CSR, LCR #420
My commission expires: 2/27/2012

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E R R A T A

I, DEBRA BURNUM, having read the foregoing deposition, Pages 1 through 194, taken September 9, 2010, do hereby certify said testimony is a true and accurate transcript, with the following changes, if any:

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DEBRA BURNUM

Notary Public

My commission expires: _____

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In The Matter Of:
George Chesney, et al. v.
Tennessee Valley Authority, et al.

George Chesney
August 20, 2010

Vowell & Jennings, Inc.
214 Second Avenue North
Suite 207
Nashville, Tennessee 37201
615-256-1935



Original File 082010A.TXT
Min-U-Script® with Word Index

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

GEORGE CHESNEY; VIRGIL)
MAINES; WILLIAM GADDIS;)
DEBRA BURNUM; PATRICIA)
CORDELL; JAMES G.)
WORLEY; JEWEL H.)
FRANCIS; DONALD W.)
SIMON; and BARBARA M.)
PHILLIPS,)
)
Plaintiffs,)
)
vs.) CASE NO. 3:09-CV-09
)
TENNESSEE VALLEY)
AUTHORITY; GEOSYNTEC)
CONSULTANTS, INC.; and)
WORLEYPARSONS)
CORPORATION,)
)
Defendants.)
_____)

VIDEOTAPED DEPOSITION OF:

GEORGE CHESNEY

Taken on Behalf of the Defendants

August 20, 2010

VOWELL & JENNINGS, INC.
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1 The videotaped deposition of
2 GEORGE CHESNEY, taken on behalf of the
3 Defendants, on the 20th day of August, 2010, at
4 8:36 A.M., in the Law Offices of Cooley, Cooley
5 & McFarland, 1021 Waterford Place, Kingston,
6 Tennessee, for all purposes under the Tennessee
7 Rules of Civil Procedure.

8 The formalities as to notice,
9 caption, certificate, et cetera, are waived.
10 All objections, except as to the form of the
11 questions, are reserved to the hearing.

12 It is agreed that Katherine Gale
13 being a Notary Public and Court Reporter for the
14 State of Tennessee, may swear the witness and
15 that the reading and signing of the completed
16 deposition by the witness are reserved.

1 P R O C E E D I N G S

2 THE VIDEOGRAPHER: Here begins volume
3 1, videotape No. 1 in the deposition of George
4 Chesney in the matter of Chesney, et al. vs.
5 Tennessee Valley Authority in the United States
6 District Court, Eastern District of Tennessee at
7 Knoxville. The case numbers are 3:09-cv-09,
8 3:09-cv-48, 3:09-cv-54, 3:09-cv-64, and
9 3:09-cv-517.

10 Today's date is August 20, 2010. The
11 time on the video monitor is 8:36 A.M. The
12 video operator today is Rudy Smith.

13 The video deposition is taking place
14 at 1021 Waterford Place, Kingston, Tennessee.

15 Counsel, please identify yourselves
16 and state whom you represent.

17 MR. DAVIS: Gary Davis representing
18 Mr. Chesney.

19 MS. FRY: Brantley Fry representing
20 Mr. Chesney.

21 MS. LOWE: Ashley Lowe representing
22 GeoSyntec.

23 MS. MORETZ: Denise Moretz
24 representing WorleyParsons.

25 MR. CHASE: Jim Chase with TVA.

1 MR. ANSTOETTER: Mark Anstoetter,
2 Shook, Hardy & Bacon, with the Tennessee Valley
3 Authority.

4 MR. SHERK: John Sherk, also with
5 Shook, Hardy & Bacon for the Tennessee Valley
6 Authority.

7 THE VIDEOGRAPHER: Court reporter,
8 would you please swear in the witness?

9 GEORGE CHESNEY
10 was called as a witness, and after having been
11 first duly sworn, testified as follows:

12 MR. DAVIS: Let me state before we
13 start, Mr. Chesney has a little bit of a hearing
14 problem and wears hearing aids. So I've advised
15 him if he doesn't hear the question well enough,
16 to speak up about that, but he generally
17 functions very well with the hearing aids.

18 THE WITNESS: With multiple
19 conversations, I have a hard time picking one
20 out.

21 MR. SHERK: Hopefully, it will be
22 just you and I.

23 THE WITNESS: Okay.

24 MR. SHERK: For most of the day.

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E X A M I N A T I O N

BY MR. SHERK:

Q Mr. Chesney, once again, I'm John Sherk with Shook, Hardy & Bacon representing Tennessee Valley Authority, and I'll be asking many of the questions that you'll hear today.

Have you had your deposition taken before?

A Workmen's Comp case way back.

Q Why don't we go over the rules of deposition dos and don'ts together.

Okay?

A Okay.

Q You'll have to give a verbal response to the questions that I ask.

All right?

A Uh-huh, I understand.

Q Yes. Because it's difficult for the court reporter to take down a head nod or "uh-huh."

Okay?

A Yes.

Q Another important rule is that you let me complete my question before you begin your response.

All right?

1 A Yes.

2 Q It's very difficult for our court reporter
3 to get down conversations accurately when we're
4 talking over each other.

5 Okay?

6 A Yes.

7 Q Great. If you don't understand my
8 questions, please let me know and I'll rephrase
9 them for you.

10 Okay?

11 A Yes.

12 Q If my question is vague, for example, just
13 say that you would like me to rephrase it or
14 don't understand it, and I'll be happy to do
15 that.

16 All right?

17 A Yes, sir.

18 Q Your counsel may interpose an objection
19 from time to time, he may say, Object to form,
20 and that's for the record. You can go ahead and
21 answer.

22 All right?

23 A Yes.

24 MR. DAVIS: Unless I tell you not to.

25 BY MR. SHERK:

1 Q And those instructions are very rarely
2 given, and I can't imagine that we would have
3 one today.

4 Are you feeling good such that you
5 can give fair, accurate and complete testimony
6 today?

7 A Yes.

8 Q Maybe good is kind of an overstatement. I
9 know what you're -- how you must be feeling
10 right now.

11 A A little excited.

12 Q Well, this is not an endurance contest,
13 and I hope it won't be a grueling exercise
14 today. We'll try to move through the material
15 as quickly and efficiently as we can.

16 Okay?

17 A Yes.

18 Q Have you taken any medications today that
19 would impair your ability to give full, truthful
20 and accurate testimony?

21 A No.

22 Q What is your current address?

23 A 423 Emory River Road, Harriman, Tennessee
24 37748.

25 Q Your date of birth, please?

1 A 4-4-49, 1949.

2 Q What have you done to prepare for today's

3 deposition?

4 A I met with my attorney yesterday.

5 Q How long was your meeting?

6 A Couple hours, three hours, I believe.

7 Q What is the name of your attorney?

8 A The one I met yesterday was Paul Brandes.

9 Q Mr. Davis is also your counsel?

10 A Yes. Yes.

11 Q Do you know the law firms that are

12 representing you?

13 A Yes. It's on the back of the document

14 that -- yes. I don't know them personally.

15 Sorry.

16 Q That's fine.

17 Have you read the consolidated class

18 action complaint which has been filed in this

19 case?

20 A Yes.

21 Q Okay. When did you have occasion to read

22 that, sir?

23 A Yesterday.

24 Q Was that the first time you had seen the

25 consolidated class action complaint?

1 A No.

2 Q When have you seen that before?

3 A It was mailed to me. I don't recall the
4 date.

5 Q Okay. Did you have any input in drafting
6 the consolidated class action complaint?

7 A No, not really.

8 Q After reviewing the Complaint, did you
9 have any suggestions for revisions or did you
10 have any objections to it?

11 A No.

12 Q Besides meeting with your counsel
13 yesterday in preparation for the deposition, did
14 you do anything else?

15 A What do you mean?

16 Q For example, did you review any documents
17 in preparation for --

18 A Just that.

19 Q Once again, we'll just have to be careful
20 not to speak over each other.

21 A Okay. Got it.

22 Q You reviewed the class action complaint.
23 That's it?

24 A Right.

25 Q When you met with your attorneys, was it

1 just you and your attorneys or were other people
2 present as well?

3 A Nobody else was present.

4 Q Did you happen to review your
5 interrogatory responses in preparation for
6 today's deposition?

7 A Yes.

8 Q And they were accurate as far as you could
9 tell?

10 A From a layman's point, yes.

11 Q Where did the meeting take place
12 yesterday?

13 A At Tom McFarland's, another attorney's
14 office.

15 Q Where is his office located?

16 A I don't know the address, but it's across
17 from the Exxon station.

18 Q In Kingston?

19 A Yes.

20 Q Did you talk to friends and family members
21 in preparation for today's deposition?

22 A No.

23 Q Okay. Talk to your wife about it?

24 A Talked to my wife about it, yes.

25 Q Did she give you any helpful hints or

1 suggestions?

2 A She tried.

3 Q What kind of things did she tell you to
4 do?

5 A Not to be nervous, have faith. That's
6 about it.

7 Q Have you talked to your pastor or minister
8 about this lawsuit?

9 A No.

10 Q Do you belong to a church in the area?

11 A Yes.

12 Q What church is that?

13 A I'm sorry. Walk that back up. I have not
14 moved my letter from Ebenezer Baptist Church in
15 Thorn Grove Community.

16 Q So you attend a church in the area?

17 A Originally, yes.

18 Q Okay. Have you ever thought that you
19 might talk to a pastor or minister or your
20 preacher about this lawsuit?

21 A No.

22 Q Have you talked to a psychiatrist or
23 psychologist about this case?

24 A No.

25 Q Did you ever feel -- did you ever feel

1 that you needed counseling as a consequence of
2 the ash spill in Kingston?

3 A No.

4 Q Do you use Internet or e-mail?

5 A Occasionally.

6 Q Is that from a computer that you have at
7 home?

8 A Yes.

9 Q Okay. Do you use a work computer as well?

10 A I'm retired.

11 Q Have you ever used e-mail to converse with
12 others about the spill at the Kingston facility?

13 A No, I did not converse. I got e-mails, I
14 didn't reply.

15 Q So you have received e-mails about the
16 Kingston spill from time to time?

17 A Chatter, just neighborhood chatter.

18 Q From whom would you have received these
19 e-mails?

20 A Ms. Morgan.

21 Q Is she a neighbor?

22 A Yes.

23 Q Is Ms. Morgan a member of this lawsuit?

24 A No.

25 Q Does Ms. Morgan have her own action

1 against TVA as a consequence of the spill?

2 A I don't know.

3 Q What kinds of information has Ms. Morgan
4 given you by e-mail?

5 A She attended the meetings, and she would
6 document that and put it out in the e-mail form
7 to the community if they wanted it.

8 Q Okay. What is Ms. Morgan's full name?

9 A You got me.

10 Q Do you know her -- have you ever met her?

11 A Yes.

12 Q How close does she live to you?

13 A A couple tracts of property to the right
14 of me.

15 Q Do you know her address?

16 A No.

17 Q Has Ms. Morgan entered into any kind of
18 settlement with TVA?

19 A I don't know.

20 Q Other than Ms. Morgan, have you gotten any
21 other e-mails regarding the spill?

22 A I'm sure I have, but I don't recall. It
23 was just neighbors.

24 Q Okay. Do you visit any Internet sites
25 with regard to the spill?

1 A Sure. I've looked at a few.

2 Q Which ones would those be?

3 A I don't recall. It's whatever is
4 published in the paper, News 7.

5 Q Did you ever visit the TVA website?

6 A No.

7 Q Do you ever log on to a blog regarding the
8 Kingston ash spill?

9 A No.

10 Q Have you ever been to any blog?

11 A No. I'm -- no. No.

12 Q I'm not that computer savvy either, so
13 you're not alone.

14 Are you part of an e-mail group where
15 information is shared regarding this lawsuit or
16 the TVA ash spill?

17 A No.

18 Q Has your counsel instructed you to
19 maintain and save documents and e-mails which
20 may pertain to this litigation or the failure of
21 the dike at the TVA facility?

22 A No.

23 Q He has not?

24 A Say that again. Sure.

25 Q Have any of your counsel told you that you

1 should save documents related to the spill at
2 the Kingston facility?

3 MR. DAVIS: I'm going to object to
4 the question. You're asking for attorney-client
5 communications.

6 BY MR. SHERK:

7 Q Have you been instructed to maintain and
8 save any documents related to the TVA spill?

9 MR. DAVIS: By someone other than an
10 attorney.

11 MR. SHERK: I don't mean to get into
12 the attorney-client privilege at all.

13 MR. DAVIS: Well, you're asking for
14 attorney-client communications.

15 BY MR. SHERK:

16 Q Do you understand that you should maintain
17 documents related to the TVA spill?

18 A Do I understand?

19 Q Yes.

20 A You mean in hindsight?

21 Q Has anyone -- well, have you been saving
22 documents relating to the TVA spill?

23 MR. DAVIS: Let me say that we
24 produced documents from this witness. I assume
25 he saved those.

1 THE WITNESS: I saved what I could, a
2 few notes.

3 BY MR. SHERK:

4 Q What is your understanding about what
5 kinds of materials pertaining to the spill that
6 you should save?

7 A I'm not sure I know what you mean. Repeat
8 it, please.

9 Q What is your understanding about what
10 kinds of materials you should be saving which
11 relate to the TVA spill?

12 A The dates, what happened, what I seen or
13 witnessed.

14 Q Did you turn over the papers, e-mails and
15 information about the TVA spill to your counsel?

16 A Yes.

17 Q What did those materials consist of?

18 A Notes I've taken.

19 Q Anything else?

20 A No.

21 Q Did you save your e-mails pertaining to
22 the TVA spill?

23 A No.

24 Q Have you gotten any e-mails other than
25 those from Ms. Morgan about the TVA spill?

1 A I don't recall.

2 MR. DAVIS: Asked and answered. You
3 asked him that before.

4 BY MR. SHERK:

5 Q Do you understand that you should be
6 saving any e-mail -- any e-mails that you
7 receive or send regarding the TVA spill?

8 A No. No. Say that again.

9 Q Do you understand that you should be
10 saving e-mails you send and receive regarding
11 the TVA spill?

12 A That was between my attorney and I, is all
13 I saved.

14 Q You did save them?

15 A Yes.

16 Q All right. What is your understanding
17 about the e-mail and documents that you're
18 supposed to preserve?

19 A I can't -- I'm not sure. What is my
20 understanding?

21 Q Yes.

22 A Of the e-mails? It was communication
23 between my lawyer and me.

24 Q And those are between you and your lawyer.

25 What about other communications?

1 A I did not save those.

2 Q You did not. Okay.

3 So you did not understand that you
4 should save other e-mail communications
5 regarding this lawsuit or the TVA spill?

6 A It was my understanding I had an attorney,
7 so I didn't see the need to.

8 Q Are you married, sir?

9 A Yes.

10 Q What's your wife's name?

11 A Penny.

12 Q What is the date of your marriage?

13 A December 7, 1974.

14 Q And does she reside with you on Emory
15 River Road?

16 A Yes.

17 Q Have you been divorced?

18 A Yes, sir.

19 Q Okay. What was the date of your first
20 marriage?

21 A November 10, 1967.

22 Q What was the name of your first wife?

23 A Sherry.

24 Q Sherry?

25 A Uh-huh.

1 Q S-h-e-r-r-y?
2 A Uh-huh.
3 Q What was her maiden name?
4 A King.
5 Q How long did you remain married to Sherry
6 King?
7 A Five years, give or take. Let me add
8 that.
9 Q Do you still keep in touch with her?
10 A No.
11 Q Do you have children?
12 A Yes.
13 Q What are their names and ages?
14 A Holly -- they'll kill me -- 28. Heather,
15 30.
16 Q What is Holly's last name?
17 A Woodley.
18 Q What is Heather's last name?
19 A Owings.
20 Q Do either Holly or Heather live with you?
21 A No.
22 Q Have they ever lived with you on Emory
23 River Road?
24 A Yes. Both.
25 Q During what periods of time did Holly live

1 with you on Emory River Road?

2 A When we moved there and until she was 18,
3 she went to college.

4 Q When did you move to your house on Emory
5 River Road?

6 A When?

7 Q When, yeah, what year?

8 A Gosh. I believe it was in October '93.

9 Q October of '93?

10 A Yeah.

11 Q Okay.

12 A I believe.

13 Q Okay. So Holly lived with you from 1993
14 until she went to college?

15 A Thereabouts.

16 Q What year was that that she went to
17 college?

18 A I'm terrible with dates. I don't recall.
19 I'd have to check my records.

20 Q Okay. Five years ago?

21 A No, it was longer than that.

22 Q She's 28, so maybe she went to college
23 when she was 18?

24 A Right.

25 Q So when do you think that might have been?

1 MR. DAVIS: Objection. Asked and
2 answered. That's not very relevant anyway.
3 But, "I don't recall" is an acceptable answer.

4 THE WITNESS: I don't really recall.
5 A lot of those dates are thereabouts.

6 BY MR. SHERK:

7 Q What I'm trying to do is just figure out
8 who has lived in your house and when they lived
9 there. So if she went to school 10 years ago
10 and it's 2010 now, it probably makes sense that
11 she went to school about the year 2000.

12 Do you agree?

13 MR. DAVIS: Eight years before the
14 incident in question.

15 MR. SHERK: Gary, lets --

16 THE WITNESS: I somewhat agree. You
17 know -- there again, I'd have to --

18 BY MR. SHERK:

19 Q All right.

20 A I can get the answer. I didn't bring it
21 with me.

22 MR. DAVIS: It's not relevant. Don't
23 worry.

24 MR. SHERK: Let's refrain from the
25 commentary, Gary, seriously.

1 MR. DAVIS: I'm not going to refrain
2 if you continue to ask irrelevant questions and
3 press this witness to the point he's feeling
4 uncertain about anything as a result of your
5 pressing him for dates that were 10 years ago.

6 BY MR. SHERK:

7 Q How about your daughter Heather?
8 Approximately when did she live with you in the
9 house?

10 A When we moved in, of course.

11 Q Right.

12 A And moved out, I'm going to guess again, a
13 year later.

14 Q Okay. We'll peg that about 2001. Does
15 that sound approximately okay?

16 A Approximately.

17 Q Okay. Great. So neither daughter lived
18 with you in 2008 in December?

19 A No.

20 Q Okay. Other than Holly and Heather, has
21 anyone else ever lived with you and your wife,
22 Penny, in your house on Emory River Road?

23 A No.

24 Q Okay. Have your daughters been back to
25 visit you since the failure of the dike in 2008?

1 A Yes.

2 Q Have they ever stayed for a week or longer

3 with you --

4 A No.

5 Q -- since the failure of the dike in 2008?

6 A I'm sorry. No.

7 Q Are your mother and father still living?

8 A No.

9 Q Okay. When did your mother die?

10 A 1997, approximately.

11 Q And when did your father pass away?

12 A 1976.

13 Q What was the cause of your mother's death?

14 A Heart failure.

15 Q What was the cause of your father's death?

16 A Suicide.

17 Q Do you have brothers and sisters?

18 A Yes.

19 Q What are their names and ages?

20 A Okay. My oldest sister is Sylvia Jean

21 Williams, she's 70, approximately; Mary Jane

22 Watson, she's 65; I have an adopted brother,

23 he's 40-odd years old.

24 Q What's his name?

25 A Tim.

1 Q Are your siblings in good health?

2 A Not really.

3 Q What health problems does Sylvia Williams

4 have?

5 A I'm not going to -- I'm not going to

6 comment on that. They live in Sevier County

7 which is a ways from here, so --

8 Q Does Mary Jane -- does your other sister

9 have health problems?

10 A Yes.

11 Q They both do?

12 A Uh-huh.

13 Q Do they have cancer or heart ailments?

14 A I don't want to comment on their health

15 conditions. They're --

16 Q All right. You mentioned earlier that --

17 A They might not appreciate that.

18 Q You mentioned earlier that you are

19 retired?

20 A I did.

21 Q When did you retire?

22 A 2005.

23 Q Where did you work before then?

24 A Container Corporation of America.

25 Q How long did you work there?

1 A At Container?

2 Q Yes.

3 A Approximately five years. It was

4 interrupted with military.

5 Q Were you sent to Iraq or Afghanistan?

6 A No, sir.

7 Q What military service are you referring

8 to?

9 A Army.

10 Q Were you called into active duty?

11 A No, I volunteered, sir.

12 Q When was that?

13 A '68, August of 1968.

14 Q Okay. Where did you serve, sir?

15 A One year in Southeast Asia, Vietnam.

16 Q Okay. Let's move a little closer in time

17 if we can. We were talking about your

18 retirement with the Container Corporation of

19 America.

20 A No, sir. I retired from BWXTY-12 National

21 Security Complex. I worked at Container before

22 going there.

23 Q Okay. So during what period of time did

24 you work at Container?

25 A Obviously it was before '68, so I would

1 say sometime in '60 -- prior to going to the
2 service, early '68 to -- I went back to work
3 there after my tour of duty and would have left
4 there in September 1976.

5 Q All right. So you worked at Container
6 from approximately 1963 to 1968?

7 A '67.

8 Q Okay. '67. And then you served in the
9 military?

10 A Yes, sir.

11 Q You went to Southeast Asia?

12 A Yes, sir.

13 Q How long were you there?

14 A A year.

15 Q Then you came back home?

16 A Yeah, I did, thank you.

17 Q And you resumed working at Container?

18 A Uh-huh.

19 Q And you worked there until 1976?

20 A Yes.

21 Q Where did you go after that?

22 A I went to K-25.

23 Q What is K-25?

24 A It's a part of the enrichment facility.

25 Q What did you do there?

1 A I was an operator.

2 Q What did you operate?

3 A That's -- we had -- I'm not allowed

4 to -- it's a national security complex. I won't

5 comment on anything that I did, shape or form.

6 Q What period of time did you work at K-25?

7 A From September 1976 until -- I worked

8 there five years. Transferred to Y-12 security

9 complex.

10 Q Okay. In approximately 1981 you

11 transferred to Y-12?

12 A That would be approximately.

13 Q Where was K-25 located?

14 A It's on Gallaher Road.

15 Q Okay. That's in Tennessee?

16 A Yes, sir.

17 Q Okay. What town of Tennessee?

18 A It's Oak Ridge.

19 Q Okay. Where is the Y-12 security complex?

20 A Bear Creek Road, Oak Ridge.

21 Q Okay. How long did you work at Y-12?

22 A 28 -- almost 29 years. Excuse me, they

23 combined those. It was with the same, under the

24 DOE contract.

25 Q Okay.

1 A So they count -- it counts -- when I
2 went to work there in 1976, that accumulates
3 to -- it's not separate.

4 Q I understand.

5 So you worked at Y-12 from 1981 to
6 approximately 2000?

7 A Say that again. Now, what?

8 Q Okay. You worked at the Y-2 --

9 A Y-12.

10 Q Sorry, let me start again.

11 You worked at the Y-12 security
12 complex from 1981 to approximately 2005 when you
13 retired?

14 A Yes.

15 Q All right. Thank you.

16 And as I understand it, you can't
17 comment on what you did at K-25 or Y-12 because
18 of national security concerns?

19 A I can't get into detail.

20 Q Okay. Can you give a broad description of
21 your job activities.

22 MR. DAVIS: Like you did when we were
23 discussing it.

24 THE WITNESS: I started as, you know,
25 an operator at K-25. That job started winding

1 down, I got transferred to Y-12, and I went into
2 the operating group and promoted to supervisor,
3 worked in various areas until I retired.

4 Q While you were at work, in any of your
5 jobs, did you ever suffer an on-the-job injury?

6 A Yes. I had a back injury.

7 Q Okay. When was that?

8 A In the '80s.

9 Q Did you receive compensation or settlement
10 for that?

11 A Yes.

12 Q Is that the deposition that you referred
13 to earlier today?

14 A Yes.

15 Q Was in connection with your back injury?

16 A Yes.

17 Q When you were in the service in Southeast
18 Asia, did you sustain any injuries?

19 A Nothing permanent. Nicks and scratches
20 and cuts and bruises.

21 Q Okay.

22 A I'm one of the lucky ones.

23 Q Right. So you've had one Workers'
24 Compensation claim?

25 A Yes -- no, two.

1 Q Two.

2 A Two. One --

3 Q One was your hearing?

4 A Yes.

5 Q What happened at work that has affected

6 your hearing?

7 A I can't comment on that. It would be

8 getting into the detail of the operation, and

9 I'm not going to do that.

10 Q While you were in the military, were you

11 exposed to napalm?

12 A You mean -- explain "exposed." I seen

13 napalm.

14 Q Did you ever -- were you ever close enough

15 to napalm that you -- that it touched your skin

16 or that you breathed it?

17 A No.

18 Q Did you work with weaponry?

19 A Yes.

20 Q What sorts of weaponry?

21 A Light arms.

22 Q Did you ever work with bombs or other

23 munitions?

24 A Yes.

25 Q Such as?

1 A Claymore mines, detcord, C-4.

2 Q Did you receive any special training with
3 regard to working with weaponry and munitions?

4 A Yes.

5 Q Did you receive any information about the
6 dangers of being exposed to chemicals or
7 substances that may be in weaponry or munitions?

8 A Yes.

9 Q What sorts of things were told to you?

10 A Training -- we were trained and -- gas,
11 biological, and nerve gas.

12 Q Do you believe that you were ever exposed
13 to any biological agent while serving in the
14 military in Southeast Asia?

15 A No, sir.

16 Q Do you believe you were ever exposed to
17 any harmful substances while serving in the
18 military in Southeast Asia?

19 MR. DAVIS: Objection to the form.
20 There's no description or definition of harmful
21 substance.

22 BY MR. SHERK:

23 Q You can answer.

24 A You mean I can --

25 MR. DAVIS: You can answer.

1 But -- go ahead, if you understand.

2 THE WITNESS: Repeat the question.

3 BY MR. SHERK:

4 Q Yeah. Do you believe that you were
5 exposed to any harmful substances while you were
6 serving in the military in Southeast Asia?

7 A Bomb fragments, rocket attacks, bullets,
8 Agent Orange possibly.

9 Q That was my next question. I wondered if
10 you think you had been exposed to Agent Orange
11 while you were serving in the military in
12 Southeast Asia.

13 A I seen it. I don't know that I was
14 exposed.

15 Q Were you ever exposed to asbestos while
16 you were in the military?

17 A Not to my knowledge.

18 Q When you were in the military, did you use
19 protective gear to shield you from exposure to
20 harmful agents and substances?

21 A Yes, sir.

22 Q What sorts of protective gear did you
23 wear?

24 A Gas mask.

25 Q How frequently would you wear a gas mask

1 when you served in the military?

2 A Quite often in the combat.

3 Q All right. Were you ever in a combat
4 situation where there was gas present?

5 A As you know, the Army uses CS gas and CN
6 gas, and that's used in artillery forms, and
7 sometimes the wind shifts.

8 Q And it was during --

9 A It's tear gas.

10 Q It was during those instances where you
11 may have been exposed to gas?

12 A Absolutely, yes. We're trained in CS gas.
13 We went through a -- they call it gas chambers.

14 Q While you worked at K-25 and Y-12, were
15 you ever exposed to asbestos?

16 A Not to my knowledge.

17 Q Okay. Were you ever exposed to hazardous
18 substances when you worked at K-12 and Y-25?

19 MR. DAVIS: Object to the form. It's
20 undefined.

21 BY MR. SHERK:

22 Q You can answer.

23 MR. DAVIS: If you understand.

24 THE WITNESS: What do you call
25 hazardous, first of all?

1 BY MR. SHERK:

2 Q What does that mean to you?

3 A U-235, is that hazardous?

4 Q If it is to you, sir.

5 A Well, it keeps us safe, so that's what we
6 did. And like I said before, I can't talk -- I
7 can't talk to what I did there. I can't speak
8 to that, so --

9 Q I'm just asking you if you were exposed to
10 substances that are hazardous while you were at
11 work at K-12 and Y-25. Do you believe that you
12 were?

13 MR. DAVIS: Objection to form. Same
14 objection.

15 THE WITNESS: Asbestos, is that the
16 line of your questioning, sir?

17 BY MR. SHERK:

18 Q No. I think you've already told me that
19 you were not exposed to asbestos.

20 A The nature of the work itself is
21 hazardous.

22 Q What you did at K-12 and Y-25?

23 A It's Y-12 and K-25.

24 Q There we go. Sorry.

25 A Yes, we were trained in that.

1 That's what we did.

2 Q Okay. What chemicals did you work around
3 at K-25 and Y-12?

4 A That would not be appropriate to answer
5 that.

6 Q Did you have to --

7 A That's detailed. I'm sorry.

8 Q Did you have to wear protective gear when
9 working at K-25 and Y-12?

10 A Yes, sir.

11 Q Did you work with beryllium?

12 A I'm not going to answer that.

13 Q Did you work with toxic, hazardous gases?

14 A I don't feel comfortable. I don't feel
15 comfortable answering these national security
16 questions.

17 MR. DAVIS: Then don't answer. Say
18 you can't answer.

19 THE WITNESS: I can't answer that.

20 BY MR. SHERK:

21 Q Have you ever worked with or were you ever
22 exposed to lead at K-25 and Y-12?

23 A Sir, I'm not going to speak to the
24 processes at either place.

25 Q All right. Let me ask you a series of

1 questions about that.

2 Were you exposed to mercury while
3 working at K-25 and Y-12?

4 MR. DAVIS: You can answer the same
5 way if you feel necessary. You can answer it
6 the same way to all of these questions.

7 THE WITNESS: Yeah, no comment.

8 BY MR. SHERK:

9 Q Were you exposed to arsenic while working
10 at K-25 and Y-12?

11 A No comment.

12 Q Did you work with thallium when you were
13 at K-25 and Y-12?

14 A No comment.

15 Q Were you exposed to boron when you were at
16 K-25 and Y-12?

17 A No comment.

18 Q Were you exposed to cadmium when you were
19 at K-25 and Y-12?

20 MR. DAVIS: Cadmium.

21 MR. SHERK: Yes.

22 THE WITNESS: There again, no
23 comment.

24 BY MR. SHERK:

25 Q Were you exposed to chromium when you were

1 at K-25 and Y-12?

2 A No comment.

3 Q Were you exposed to manganese --

4 MR. DAVIS: Manganese.

5 THE WITNESS: No comment.

6 BY MR. SHERK:

7 Q -- when you were at K-25 and Y-25?

8 Were you exposed to nickel or

9 selenium when you were at K-25 or Y-12?

10 A No comment.

11 Q Were you exposed to zinc when you were at
12 K-25 or Y-12?

13 A No comment.

14 Q Without asking any details about
15 particular chemicals, do you believe that you
16 have been exposed while at K-25 or Y-12 to
17 substances that were potentially carcinogenic?

18 MR. DAVIS: Objection to the
19 question.

20 You may answer if you know.

21 THE WITNESS: I left -- we had a
22 medical evaluation yearly, so it was all
23 negative. So I never had high lung counts,
24 nothing showed up in bioassay.

25 BY MR. SHERK:

1 Q While you worked at K-25 and Y-12, do you
2 believe that you were exposed to materials that
3 were radioactive?

4 A No comment.

5 Q Okay. When you worked at K-25 and Y-12,
6 do you believe that you worked with substances
7 which were hazardous or toxic?

8 A No comment.

9 MR. SHERK: This might be a good
10 time to take a quick break.

11 MR. DAVIS: Okay.

12 THE VIDEOGRAPHER: Going off the
13 record. The time is 9:21.

14 (Recess.)

15 THE VIDEOGRAPHER: Back on record
16 time is 9:40.

17 BY MR. SHERK:

18 Q We're back on the record, sir, after a
19 short break.

20 Let me ask you a few questions now
21 that pertain to what we were discussing right
22 before the break.

23 As I understand it, when you were in
24 the military you worked around napalm, Agent
25 Orange, uranium.

1 MR. DAVIS: Object to the form.

2 THE WITNESS: Answer?

3 MR. DAVIS: Well, he asked about the
4 military.

5 THE WITNESS: Yes.

6 MR. DAVIS: Go ahead.

7 BY MR. SHERK:

8 Q Yes.

9 A You're asking if I worked around uranium
10 while I was in the military?

11 Q Yes.

12 A No.

13 You asked if I worked with napalm?

14 Q Yeah.

15 A No. Napalm was used in Vietnam, I seen it
16 being used. Napalm come in the form of a big
17 old bomb, and it's a gel-like substance made
18 from gasoline and some other accelerant that
19 just burns, and I've seen it used.

20 Q Right.

21 A Your other question, part of that
22 question?

23 Q Agent Orange.

24 A Agent Orange?

25 Q Yes.

1 A My exposure to Agent Orange?

2 MR. DAVIS: He didn't ask about your
3 exposure. Listen to the question.

4 THE WITNESS: Yes, sir.

5 BY MR. SHERK:

6 Q I asked you -- I said --

7 A Worked with it?

8 Q Right, worked around it.

9 A No, I didn't work with Agent Orange.

10 Q It was present in the area around which
11 you worked?

12 A I suppose so.

13 Q And napalm was present in the areas that
14 you happened to be in from time to time while
15 you were in Southeast Asia?

16 MR. DAVIS: Object to form. It's
17 vague.

18 BY MR. SHERK:

19 Q You can answer.

20 A Sir, when they call in an air strike, then
21 they're going to use napalm, okay. I didn't
22 work with it.

23 Q Right. You may have been in the vicinity
24 where napalm was dropped when you were in
25 Southeast Asia?

1 A Yes. As I said before, I seen it used.

2 Q I believe that you mentioned U-238,
3 earlier.

4 MR. DAVIS: Object to the form.

5 THE WITNESS: No.

6 BY MR. SHERK:

7 Q You did not?

8 A No, I did not mention U-238.

9 Q Did you mention U-235?

10 A Yes.

11 Q Okay. How was it that you were in the
12 vicinity or presence of U-235 while in Southeast
13 Asia?

14 A I was not.

15 Q You were not. How did that come
16 up -- what was the reference to U-235?

17 A Excuse me. You asked me if the materials
18 I worked with at Y-12 were hazardous, and I
19 replied with -- I think -- I think I said, Do
20 you mean U-235?

21 Q Okay. All right. Okay. I'm glad we got
22 that clarified.

23 Now, let's move to --

24 A Just so you know -- I'm sorry -- that
25 that's easy public information.

1 Q Okay. Yeah. Let's return to our
2 discussion of your work at K-25 and Y-12.

3 What was your clearance level when
4 you worked at those facilities?

5 A Q.

6 Q What does clearance level Q signify?

7 A Access to confidential and secret material
8 and documents.

9 Q Okay. When you worked at K-25 and Y-12,
10 did you have different security clearances at
11 different points in time?

12 A There were Q clearances at both places.

13 Q And so that never changed the entire time
14 you worked there?

15 A (No audible response.)

16 MR. DAVIS: You have to say "yes" or
17 "no."

18 THE WITNESS: Sorry, you couldn't
19 hear my head rattling probably. Yes, it never
20 changed.

21 BY MR. SHERK:

22 Q What is your understanding about why you
23 couldn't respond to my earlier questions about
24 substances you may have been exposed to?

25 A My training.

1 Q Can you explain that, please?

2 A In order to get that clearance and that
3 access, you have some training. And through
4 that training I learned, you know, not to
5 talk. You're not -- it's a matter of national
6 security to speak to a lot of those items, and
7 I'm not -- I'm not going to do it, you know,
8 so --

9 Q Were there confidentiality agreements or
10 pledges of some sort that you had to sign in
11 that regard?

12 A No pledges. There's no pledges. I mean,
13 you get to training and you've already got the
14 clearance. We've got the training, and then
15 that allows you to have access.

16 Q What is your understanding of the kind of
17 security restrictions that you are under with
18 regard to your work at K-25 and Y-12?

19 A I'm not sure I understand. Say it again.

20 Q Sure. What is your understanding of the
21 kind of security restrictions that you were
22 under with regard to your work at K-25 and Y-12?

23 A I understand I had a Q clearance, and I
24 had access to confidential and secret documents
25 and materials.

1 Q Did either of your sisters work at K-25 or
2 Y-12?

3 A No.

4 Q While you worked at K-25 and Y-12, did you
5 ever wear a radiation badge?

6 A Yes.

7 Q When you were at K-25 and Y-12, did you
8 wear protective gear?

9 A Yes.

10 Q What sorts of gear did you wear?

11 MR. DAVIS: If that's confidential,
12 then don't answer. If it is not, then you can.

13 THE WITNESS: I can generalize it.
14 Respirators, suits -- I'm sorry, protective
15 clothing.

16 BY MR. SHERK:

17 Q You wore a full-body suit?

18 A Maybe.

19 Q Did you have a hood on that you wore?

20 A Maybe.

21 Q Did you wear a respirator at all times
22 during the course of your work at K-25 and Y-12?

23 A No.

24 Q Did you wear a respirator just for a
25 portion of the time that you were working at

1 K-25 and Y-12?

2 A Sometimes.

3 Q Okay. Can you explain the circumstances
4 why you might have needed to wear a respirator?

5 A No.

6 Q I believe you said that you received
7 screening while you worked at K-25 and Y-12?

8 A By screening you mean?

9 Q Medical screening.

10 A Yes.

11 Q What kinds of medical screening did you
12 receive while you worked at K-25 and Y-12?

13 A Physicals.

14 Q What did those consist of?

15 A Blood, urine, feces, bioassay.

16 Q So they would take your blood and test it?

17 A I'm sorry. I wasn't through.

18 Hearing, EKG, breathing tests, and
19 blood work. So that would be it.

20 Q Okay. How often would you have these
21 kinds of screening tests that you just
22 described?

23 A Yearly.

24 Q Okay. So you received a yearly screening
25 test of that type from 1976 when you started

1 working until you concluded in 2005?

2 A It was different in different areas.

3 Q Okay. How so?

4 A Some areas required more yearly physicals
5 than other areas.

6 Q So in some areas you would require
7 screening tests like you've described more than
8 once a year?

9 A Maybe.

10 Q Okay. Were you ever --

11 A If you worked in the office, obviously you
12 wouldn't be in that program. If you worked, as
13 they like to say, "in the field," you might be
14 more often, yearly in other words.

15 Q You might require a yearly -- excuse me,
16 let me start again.

17 You might require the battery of
18 screening tests you've described more than once
19 a year if you worked in the field?

20 A If it was -- if your exposure showed that,
21 yes.

22 Q Were you screened for mercury while
23 working at K-25 and Y-12?

24 A I don't know.

25 Q Okay. Were you screened for beryllium

1 while working at K-25 or Y-12?

2 A I believe so.

3 Q Were you screened for lead while working
4 at K-25 or Y-12?

5 A Yes.

6 Q Were you personally ever screened more
7 than once a year while working at K-25 or Y-12?

8 A My bioassay and my badge never exceeded
9 acceptable limits, so I had no extra screenings.

10 Q So you never had a positive indication on
11 your badge?

12 A Right.

13 Q Okay. Did you ever receive a full body
14 radiation scan while working at K-25 and Y-12?

15 A No, sir.

16 Q Okay. Do you presently have any claims
17 against the government arising out of your work
18 at K-25 or Y-12?

19 A No, sir.

20 Q Are you taking advantage of any
21 compensation plan offered by the government in
22 connection with exposures you may have received
23 while working at K-25 or Y-12?

24 A No, sir.

25 Q Are you aware that there are lawsuits that

1 have been brought against the government on
2 behalf of those who worked at K-25 or Y-12?

3 A Yes, I'm aware.

4 Q Have you ever considered joining those
5 lawsuits?

6 A No, sir.

7 Q Are you aware that the government is
8 offering a compensation plan for those that
9 worked at K-25 or Y-12?

10 A I know there's a sick worker act passed by
11 Congress.

12 Q Have you considered making a claim under
13 that sick worker act?

14 A No, sir.

15 Q And you have no present intention to do
16 so; is that right?

17 A No, sir.

18 Q Besides beryllium and lead, were there
19 other compounds that you were screened for while
20 working at K-25 and Y-12?

21 A Yes.

22 Q What were those?

23 A Uranium.

24 Q Anything else?

25 A I better not comment on that.

1 Q Okay.

2 MR. SHERK: Gary, as to the questions
3 that Mr. Chesney declined to respond to earlier
4 in this deposition, had you instructed him not
5 to answer?

6 MR. DAVIS: No, I have not.

7 MR. SHERK: Okay. I need to go
8 on the record, with all due respect to you,
9 Mr. Chesney, that we have to object to your
10 declining to give us the answers to the
11 questions that we posed earlier. And that's
12 something we may need to take up later, but I
13 need to put this on the record.

14 MR. DAVIS: And for the record, I'll
15 say if you can demonstrate any possible shred of
16 relevance to those questions, then you might be
17 able to convince the judge to get him to answer.
18 But we will oppose that, of course, because
19 there's no relevance. But go ahead.

20 MR. SHERK: There's no relevance in a
21 medical monitoring case? Yeah, right.

22 MR. DAVIS: And as you know,
23 Mr. Chesney is making these claims on behalf of
24 a group of people other than himself.

25 MR. SHERK: Yeah.

1 MR. DAVIS: But we can debate that if
2 the time comes.

3 MR. SHERK: I just want to make sure
4 its understood on the record as to what I mean.

5 MR. DAVIS: And I want to make sure
6 it's understood that Mr. Chesney understands his
7 responsibilities under his security clearance.
8 And I have no idea what those are, so I can't
9 comment on whether he should answer those
10 questions or not.

11 THE WITNESS: You'd probably have to
12 torture me.

13 MR. SHERK: And Mr. Chesney, I make
14 my objection with all due respect to you. This
15 is kind of a lawyer stuff.

16 THE WITNESS: Yeah, I understand
17 that. But -- and you understand it's a matter
18 of national security that I'm required not to
19 speak to certain things, and if I'm not sure,
20 then I'm not going to comment on it. So --.

21 MR. SHERK: Yes. I think you've
22 made your position very clear. Thank you, sir.

23 All right, let's change gears now.

24 Q Have you been a party to a lawsuit besides
25 this one?

1 A No. No, sir.

2 Q You've never --

3 A Other than the one you know about,

4 Workmen's Comp.

5 Q Right, there we go. So you've never sued

6 anybody or been sued besides this case?

7 A No.

8 Q You've never been convicted of a crime?

9 A No.

10 Q How did you become involved in this

11 lawsuit, sir?

12 A Well, the proximity of where I live.

13 Q How did you decide to become involved in

14 the lawsuit?

15 A TVA said they wouldn't buy us out.

16 Q Is that what triggered your decision to

17 become involved in litigation against TVA?

18 A Yes, sir.

19 Q How did you receive the news that TVA

20 would not buy you out?

21 A A letter.

22 Q When did you receive that letter?

23 A I don't recall the date.

24 Q After the spill, obviously?

25 A Yeah.

1 Q How did you choose your attorney?

2 A I didn't. My wife did.

3 Q Did you observe the processes that she
4 went through in determining what counsel she
5 would select for you both?

6 A No. There was -- just haphazardly, a
7 neighbor said, We're going to talk to this
8 firm, and she went with him and liked him and
9 this -- we just liked it.

10 Q Which firm was that?

11 A Lieff, Cabraser.

12 Q And are they still your counsel?

13 A Yes, all these are.

14 Q Okay. Do you know when it was that you
15 officially established an attorney-client
16 relationship with your counsel?

17 A I don't remember the date, no, sir.

18 Q Was that something that your wife did on
19 your behalf or that you were involved in?

20 A No, I was involved in it.

21 Q Okay. Did you have a meeting with your
22 counsel at which time you established an
23 attorney-client relationship?

24 A Yes.

25 Q Would that have been within the six months

1 after the spill?

2 A Possibly.

3 Q Okay.

4 Q How often do you communicate with your
5 lawyers about this lawsuit?

6 A A couple times a week.

7 Q Okay. How do those communications take
8 place?

9 A Telephone.

10 Q Is there a particular contact at your law
11 firms that you usually speak with?

12 A There's secretaries usually who I talk
13 with.

14 Q Is it you or your wife that typically
15 checks in with your lawyers?

16 A Me.

17 Q By calling your counsel, is that how you
18 keep up with the progress of your lawsuit?

19 A They call me.

20 Q Oh, they call you?

21 A That's my preferred way of communication,

22 Q By telephone?

23 A Yes.

24 Q And you would receive calls from your
25 counsel then?

1 A Yes.

2 Q They're not calls that you initiate?

3 A No.

4 Q Do you know who the other class
5 representatives are in this case?

6 A I seen their names. I don't know them.

7 Q Have you made any effort to reach out and
8 communicate with the other class representatives
9 in this case?

10 A No.

11 Q Have you ever e-mailed them?

12 A No.

13 Q Did you ever meet with Erin Brockovich or
14 go to one of her presentations about the TVA
15 spill?

16 A No.

17 Q Did your wife?

18 A No.

19 Q Have any friends or members of your family
20 encouraged you to participate in this litigation
21 against TVA?

22 A No.

23 Q Have any family members or friends
24 discouraged you from participating in litigation
25 against TVA arising out of the spill?

1 A No.

2 Q You're aware, Mr. Chesney, that this is a

3 class action case?

4 A Yes.

5 Q Are you aware you're serving as a class

6 representative?

7 A Yes.

8 Q What does being a class representative

9 mean to you?

10 A That I'm representing my community and

11 myself -- excuse me just a second. Okay.

12 Q What do you view as your responsibilities

13 as a class representative?

14 A To be honest and represent myself and the

15 community as best I can.

16 Q Okay. Have you done anything in

17 particular to prepare to be a class

18 representative?

19 A Yes.

20 Q What's that? What are those things?

21 A Reviewed the document and spoke with my

22 lawyers.

23 Q Anything else that you can think of?

24 A No.

25 Q Have you spoken with any experts in this

1 case?

2 A Well, I don't know if they're experts, no.

3 Q Have you had discussion with friends and
4 neighbors about the lawsuit?

5 A No.

6 Q Have you investigated the situations of
7 other people who would fall within the class
8 area in this case to determine their
9 experiences?

10 A Well, I spoke with neighbors when they
11 were moving and -- you know, Good luck, and that
12 sort of thing.

13 Q All right. So you've had neighbors that
14 have moved out of the area since the spill?

15 A Yes, sir.

16 Q Who are they?

17 A Gosh. There's so many. Ray Riggs, that's
18 one; Jerry Duncan.

19 Q Terry Duncan?

20 A Jerry. Mr. Byers, don't know his first
21 name; and I don't recall -- there's several, but
22 those are the ones I knew better.

23 Q Are these neighbors who received buyouts
24 from TVA?

25 A Yes.

1 Q Have any of your neighbors left who have
2 not received buyouts from TVA?

3 A I don't know.

4 Q So you have not met any of your fellow
5 class representatives in this case; is that
6 right?

7 A Yes.

8 Q Okay. Do you know where any of them live?

9 A Well, when I see their names, there's an
10 address -- I mean, there's an address there and
11 that's --

12 Now, I don't know -- let me clarify
13 that. I don't know if I've met them or not.

14 Q Oh, okay.

15 A Okay.

16 Q You may have met them and just don't
17 recall?

18 A Don't recall. I'm terrible with names and
19 dates.

20 Q Are you familiar with the class -- the
21 classes that are being proposed in this lawsuit?

22 A Yes.

23 Q What are they?

24 A Class 1, class 2, and 3.

25 Q What is class 1?

1 A Class 1 is the area defined, that's
2 outlined.

3 Q Okay.

4 A And that's the residents in that area.

5 Q What is class 2?

6 A Class 2 is the ones downstream, and then
7 class 3 is the ones that need medical
8 monitoring.

9 Q All right. Let's make this an exhibit.

10 MR. DAVIS: Got a copy?

11 MR. SHERK: No, I just have this one.

12 MR. DAVIS: Is this the same map that
13 you used yesterday only a larger version?

14 MR. SHERK: Yes.

15 MR. DAVIS: Okay. Would you say that
16 on the record?

17 MR. SHERK: Sure.

18 MR. DAVIS: And relate it to which
19 exhibits I have?

20 MR. SHERK: I don't know which
21 exhibit it was yesterday.

22 MR. DAVIS: Wasn't this Exhibit 2
23 from the deposition yesterday? Do you recall?

24 BY MR. SHERK:

25 Q Mr. Chesney, you have been shown Exhibit

1 No. 1.

2 Do you see that?

3 A This?

4 Q Yes.

5 A Yes.

6 (Marked Exhibit 1.)

7 BY MR. SHERK:

8 Q Is that a map of the Kingston area?

9 A Yes.

10 Q Are you generally familiar with the
11 Kingston area?

12 A Yes.

13 Q Does this look like a fair and accurate
14 representation of that area to you?

15 A Well, it doesn't have the outline.

16 Q Right, we'll get to that. So this is a
17 map without the outline on it; correct?

18 A That would be correct.

19 Q Would you be able to draw the outline of
20 class 1 on this map?

21 A Not accurately, but I can put you a red
22 line down there.

23 Q Okay. Let me get you a pen. I'm giving
24 you a red Magic Marker. Here.

25 MR. DAVIS: I'm going to object to

1 the form of the question from the sense that
2 you're asking the witness to create an exhibit
3 for you. Now, you may do so if you can.

4 THE WITNESS: I'm just orienting
5 myself.

6 BY MR. SHERK:

7 Q All right. That would be class A?

8 MR. DAVIS: Objection to the form.

9 MR. SHERK: Pardon me?

10 BY MR. SHERK:

11 Q That would be class No. 1, sir?

12 A To the best -- I did the best I could.

13 Q Very good. Thank you so much.

14 Could you label that class 1?

15 A (Witness complies.)

16 Q Would you be able to do the same thing
17 with class 2?

18 A It's not defined. I've not -- I've not
19 seen no outline of class --

20 Q Okay. That's fine.

21 Mr. Chesney, you've been handed
22 Deposition Exhibit No. 2, and I'll represent to
23 you that this is a copy of the consolidated
24 class action complaint.

25 Do you see that, sir?

1 A Yes.

2 (Marked Exhibit 2.)

3 BY MR. SHERK:

4 Q Do you see your name there at the top
5 left-hand side?

6 A Yes.

7 Q I would direct your attention to page 27,
8 I believe.

9 MR. DAVIS: Let me just point out
10 that this exhibit is not accurate because the
11 map is a black and white copy and that does not
12 provide the color that was provided with the
13 original.

14 MR. SHERK: What are you talking
15 about?

16 MR. DAVIS: The original exhibit of
17 this had a color map attached.

18 MR. SHERK: To the Complaint?

19 MR. DAVIS: Yes, when it was filed,
20 it was in black and white?

21 MR. SHERK: Yeah.

22 MR. DAVIS: It was?

23 MR. SHERK: Yeah.

24 MR. DAVIS: Well, it should have been
25 color. I mean, I think it was, wasn't it? It

1 was. Whether the court reproduced it in that
2 way, we don't know.

3 MR. SHERK: Maybe I can cure that.

4 Q Anyway, as to the Exhibit No. 2, on page
5 27, do you see the class definitions there, sir?

6 A Yes.

7 Q Okay. I just want those to be available
8 to you to refer to, if you need them.

9 Okay?

10 A Sure.

11 Q All right. I want to try to resolve your
12 counsel's concerns here, so let me hand you
13 what's been marked Exhibit No. 3.

14 Do you see that?

15 A Yes.

16 (Marked Exhibit 3.)

17 BY MR. SHERK:

18 Q Okay. I'll represent to you that this is
19 a color version of the map that is attached to
20 the back of the consolidated complaint.

21 Have you ever seen this map before?

22 A Yes.

23 Q Okay. Great. Does that look to you like
24 the map that was attached to the back of the
25 consolidated class action complaint?

1 A Yes.

2 Q And do you understand that to be property
3 damage class 1?

4 A Do I understand?

5 Q Yes.

6 A Yes.

7 MR. DAVIS: Let me point out that
8 the map seems to cut off at the bottom as
9 compared to what was in the Complaint. In other
10 words, there's more area at the bottom of the
11 map in the complaint.

12 MR. SHERK: All right.

13 MR. DAVIS: Let me show you.

14 MR. SHERK: Boy, isn't that
15 something.

16 MR. DAVIS: So it's not a fair and
17 accurate depiction of what was in the Complaint.

18 MR. SHERK: Well, we don't need any
19 testimony from you, sir.

20 MR. DAVIS: Well, I'm just trying to
21 make the record straight.

22 MR. SHERK: We don't even have a
23 question pending, so --

24 MR. DAVIS: Well, I'm objecting to
25 your previous question which presumed facts not

1 in evidence.

2 MR. SHERK: Thank you. You're
3 becoming an obstructionist here, sir. So I'd
4 ask you to --

5 MR. DAVIS: If you would ask a proper
6 question, I wouldn't have to continue to object.

7 BY MR. SHERK:

8 Q I'm handing you what has been marked
9 Chesney Deposition Exhibit No. 4.

10 And I'd like you to take a look at
11 the class geographic area in this map and
12 compare it to the one that your counsel has
13 right here.

14 A I'm not orienting -- am I orienting it
15 right? I guess. So yeah, okay. The question
16 was?

17 Q Do those look similar to you?

18 A Yes.

19 (Marked Exhibit 4.)

20 BY MR. SHERK:

21 Q Substantially similar?

22 A No.

23 Q They don't?

24 A This is a photograph. This is a map.

25 Q Does the class area look substantially

1 similar to you?

2 MR. DAVIS: I'm going to object to
3 the form.

4 You may answer if you can.

5 THE WITNESS: Close, I guess.

6 BY MR. SHERK:

7 Q Okay. Would you mark where your house is
8 on Exhibit 4 for me, please?

9 A This?

10 Q Yes. Use that red pen there.

11 A (Witness complies.)

12 Q Very good. In what classes do you
13 understand that you are a part of, Mr. Chesney?

14 A I'm part of 1 and 3. Beg your pardon, one
15 and -- resident class.

16 Q Okay. Thank you. Now, do you know the
17 logic behind how the geographical boundary of
18 class No. 1 was determined?

19 A By the experts and maybe my attorneys.

20 Q You had no input in formulating that class
21 boundary?

22 A No.

23 MR. SHERK: We're going to have to
24 take a quick break because the tape is ending.

25 THE VIDEOGRAPHER: Here marks the end

1 of tape No. 1. Going off the record. The time
2 is 10:16.

3 (Recess.)

4 THE VIDEOGRAPHER: On record. This
5 marks the beginning of tape No. 2. Time is
6 10:27.

7 BY MR. SHERK:

8 Q Mr. Chesney, we're back on the record
9 after a short break to change the tape.

10 A Question, sir. Can I correct my drawing
11 here, my outline?

12 Q Sure.

13 A Since looking at this, I was quite a bit
14 off.

15 Q Why don't you do your correction in blue?

16 A That's a good idea. I am probably making
17 it worse.

18 Q Thank you, Mr. Chesney.

19 So the revised class definition is in
20 blue; correct?

21 A Yes.

22 Q And that's with the benefit of looking at
23 Exhibit 3?

24 A Yes.

25 Q Okay. I've got just a few follow-up

1 questions from something we touched upon earlier
2 this morning.

3 You mentioned a meeting that your
4 wife went to with a neighbor during the time
5 that you were considering retaining counsel in
6 this case.

7 Do you remember that?

8 A Yes.

9 Q What was the neighbor's name that she went
10 with?

11 A Teresa Davis.

12 Q Is she a neighbor?

13 A Yes.

14 Q Do you know what meeting that they
15 attended?

16 A I think it was a meeting in this office.

17 Q Right here?

18 A Yes.

19 Q Who hosted the meeting?

20 A I do not know.

21 Q Okay. Do you know what law firms were
22 present?

23 A No.

24 Q Was the law firm that your wife retained
25 Leiff, Cabraser?

1 A Yes.

2 Q That was the law firm, okay.

3 Do you know what lawyer -- lawyer
4 from Leiff, Cabraser was here in this office?

5 A At that time when my wife --

6 Q Yes.

7 A No, I don't. I do not. I think it was
8 Elizabeth Alexander.

9 Q Have you ever met Elizabeth Alexander?

10 A Yes, that's my contact.

11 Q Did your wife go to the meeting with Erin
12 Brockovich?

13 A No.

14 Q Does your wife use your computer to
15 communicate about this lawsuit?

16 A No.

17 Q When did you learn that you were going to
18 be a named class representative in this case?

19 A I do not recall the date.

20 Q Okay. I may have asked you this, and if I
21 did, I apologize. But approximately when did
22 you retain Leiff, Cabraser?

23 A I think we concluded it was sometime after
24 the spill.

25 Q That's a good bet. Within a six-month

1 period after the spill?

2 A Something like that.

3 Q How close would it have been after your
4 receipt of the letter where TVA declined to
5 purchase your home?

6 A How close?

7 Q Yeah.

8 A Fairly close.

9 Q Mr. Chesney, I'm handing you what has been
10 marked as Exhibit No. 5.

11 Do you recognize that map as showing
12 the Kingston area and its surroundings?

13 A Barely. It's very fine print.

14 (Marked Exhibit 5.)

15 BY MR. SHERK:

16 Q I don't have a big one for you today, I'm
17 sorry about that.

18 I'll represent to you, sir, that this
19 map shows the course down the river of class 2.

20 Do you see that?

21 MR. DAVIS: Object to the form.

22 BY MR. SHERK:

23 Q Do you see the blue line that goes down
24 the river, sir?

25 A Yes, down the Tennessee.

1 Q Okay. That tracks from, as per the
2 property damage class 2 definition, Emory River
3 mile marker 0.0 to the Watts Bar Dam and then
4 all the way down to the bottom as we show here.

5 Do you see that?

6 A If you say so. No, I can't identify the
7 numbers, it's --

8 Q Too small?

9 A Too small.

10 Q Have you ever tracked the geographic
11 location of track 2 -- of class No. 2 on your
12 own?

13 A No.

14 Q In the class definition for property
15 damage class 2, you move down the river as the
16 blue line does on Exhibit 5, and then you
17 include waterfront property and two properties
18 situated two lots inland thereof.

19 MR. DAVIS: Is that a question? I
20 object to the form if it is because the document
21 speaks for itself.

22 MR. SHERK: I wasn't quite done.

23 Q Is that how you understand the class
24 definition of property damage class 2?

25 A From a layman's point of view, yes.

1 Q How would you go about figuring out who is
2 in property damage class 2?

3 A How would I go about figuring out who -- I
4 think they're listed in this document.

5 No? Okay. Then I don't know.

6 Q Let's change the subject, Mr. Chesney, and
7 let me ask you this: Did you ever consider
8 being a plaintiff in an individual lawsuit
9 rather than a class representative in a class
10 action?

11 A That? I didn't consider it, no, sir.

12 Q Why not?

13 A Safety in numbers.

14 Q Did you ever think you might get a
15 speedier resolution of your claim in an
16 individual case than you would in a class
17 action?

18 A No.

19 Q Are there claims that you possess that are
20 not being pursued in this class action?

21 A No.

22 Q Okay. Do you know a woman named Doris
23 Edwards?

24 A No.

25 Q She is a plaintiff in the Auchard case.

1 Have you heard of the Auchard case?

2 A No.

3 Q Ms. Doris Edwards lives at 367 Emory River
4 Road.

5 Do you know where that is?

6 A Approximately.

7 Q Is that close to you?

8 A 367? The numbers make no sense to me
9 there. I mean, yes, I can find it.

10 Q You're at 423 Emory Road; correct?

11 A Uh-huh.

12 Q She has filed an individual lawsuit
13 seeking personal injuries, emotional distress
14 and medical monitoring.

15 Do you believe you have sustained
16 personal injuries as a consequence of the dike
17 failure?

18 MR. DAVIS: Object to the form.

19 You may answer if you understand.

20 THE WITNESS: Well, I guess if
21 medical monitoring -- if we get medical
22 monitoring, then we'll know in the long-term.

23 BY MR. SHERK:

24 Q Okay. So the answer is "no"?

25 A I don't -- I don't have any injuries now,

1 to my knowledge.

2 Q Okay. Do you know other neighbors of
3 yours that have lawsuits against the TVA?

4 A Individual or -- are you speaking to the
5 class action?

6 Q All kinds, any kind.

7 A Yeah, I know the neighbors.

8 Q Who would they be, and what kinds of
9 lawsuits do they have?

10 A I know the ones that are on this: Teresa
11 and Jerry Davis, Teresa and Jerry Davis.

12 Q You know them? Okay. And they have a
13 lawsuit against TVA?

14 A They're in this class action.

15 Q Okay. Anybody else?

16 A Well, you know, they're neighbors and of
17 course I know who they are and neighbors talk.
18 So I want to say his name is Turnbill -- it's
19 Turn -- Topmiller has one.

20 Q Is he down the road from you?

21 A He's down on that peninsula that was very,
22 very close. I know -- the name just slipped my
23 mind.

24 I'm still rolling through the
25 Rolodex, and it's not come to me.

1 Q Okay. That's fine. Topmiller you said?
2 A Uh-huh.
3 Q Do you know what kind of claims he has?
4 A No, no.
5 Q He's not a member of this case as far as
6 you know?
7 A Yes, that's my understanding.
8 Q There was an individual Davis, I think you
9 mentioned.
10 A Uh-huh.
11 Q And Davis you believe is a part of this
12 case?
13 A I think so.
14 Q I don't see Davis as a named class
15 representative here.
16 A It's not a -- they're not a class
17 representative.
18 Q But they would fall within the class?
19 A I think so.
20 Q Okay. I got you. I just wanted to make
21 sure I was tracking with you there.
22 Q Has anyone tried to convince you to be in
23 an individual case rather than a class action?
24 A No.
25 Q Have you ever tried to convince neighbors

1 or friends that they should be in your class
2 action rather than in individual cases?

3 A No.

4 Q You do know neighbors that have resolved
5 their claims against TVA?

6 A Yes.

7 Q Are you aware that this case that we call
8 Chesney, actually this class action, is a result
9 of a merger of three class actions?

10 A Yes.

11 Q Okay. Those would be the Long, Blanchard
12 and the Giltane cases.

13 Do you understand that?

14 A I understand that. I don't identify with
15 the names.

16 Q You were not a named class representative
17 in either three of those cases; right?

18 A Okay. Yes.

19 Q Okay. How is it that you came to be a
20 class representative in this case?

21 A My attorney asked if I would be.

22 Q Were there certain criteria that you met
23 that other candidates did not?

24 A I don't know.

25 Q Did you actively lobby for the position?

1 A No, sir.

2 Q Got a phone call out of the blue?

3 A Yes.

4 Q Let's talk a little bit about the failure

5 of the dike at TVA now.

6 Okay?

7 A Okay.

8 Q Where were you on the evening of

9 December 22, 2008?

10 A Laying in my bed.

11 Q Okay. When did you first learn about the

12 failure of the dike?

13 A I actually heard it rumbling, didn't know

14 what it was. I thought it was thunder.

15 Q Did you get out of bed?

16 A No, I just rolled over.

17 Q Then what happened?

18 A I went to sleep.

19 Q After you woke up, what did you discover?

20 A A moonscape.

21 Q I'm sorry?

22 A A moonscape.

23 Q What does that mean?

24 A It looked like the moon out over the cove.

25 Q Oh, like a lunar landscape?

1 A Yes.

2 Q What did you do when you saw that?

3 A Well, I didn't cry, but I felt like it. I

4 started listening to the news.

5 Q What time was that?

6 A I don't recall the time.

7 Q It was the morning of the 23rd of December

8 2008?

9 A Sometime in the morning, yes, sir.

10 Q From your house, can you see the Kingston

11 facility?

12 A Very well.

13 Q From a front window in your house?

14 A Off from my deck.

15 Q What did you do for the rest of the day

16 that day, December 23?

17 A I had my grandkids with me, and we played

18 and did the grandfather and grandkids thing.

19 Q Did you go down to inspect the site?

20 A No. I could see the damage, you know,

21 from where I was at.

22 Q Okay. What did you do within the first

23 week after the failure of the dike?

24 A What did I do?

25 Q Yeah.

1 A Talked to neighbors, find out if
2 everybody's okay, and that type of thing. Just
3 conversed with my neighbors.

4 Q Did you receive any instructions by the
5 local authorities in the week following the dike
6 failure?

7 A No.

8 Q Okay. Did you receive any instructions
9 about drinking water?

10 A I questioned that at the first outreach,
11 TVA outreach meeting in the neighborhood, and
12 they told me that I am on Cumberland Utility and
13 it didn't go that far.

14 Q For the water?

15 A Yeah, Cumberland Utility is our water
16 supplier.

17 Q Right.

18 A And it's upstream, up in here somewhere,
19 right here, I think. And the ash didn't make it
20 that far.

21 Q It didn't go that far upstream?

22 A That's what TVA said.

23 Q So they told you that your water was okay?

24 A Yes, we still filter it.

25 Q Within the first six months after the

1 failure of the dike, what information did you
2 receive from TVA or any other government agency?

3 A As I said before, I went to the outreach
4 meetings and spoke with them there. They had
5 one at Roane State with the engineers, I went
6 to that one. When they started covering the
7 ash -- the -- where the ash was laid out and
8 they started covering it with a mat-like surface
9 that will grow grass.

10 Q Okay. They sprayed it with something that
11 covered it, the ash?

12 A Yes.

13 Q What color was that stuff?

14 A Green.

15 Q So you could tell what had been covered?

16 A Yeah, quite a bit left uncovered, of
17 course, during the process.

18 Q What did you -- what information did you
19 glean out of the outreach meeting that you went
20 to?

21 A What did I glean?

22 Q Yes.

23 A That they were going to bring the lake
24 up to full table, the grass deal, how they
25 were going to dredge. I asked the engineers

1 of the infrastructure of the dike, found out
2 the disappointing news it was made of the ash
3 itself, no infrastructure, no bedrock they
4 say -- they said. That's all I recall.

5 Q Okay. Have you continued to reside at
6 your property on Emory River Road since
7 December 22, 2008?

8 A Yes.

9 Q You've never left it temporarily?

10 A Temporary?

11 Q Yes.

12 A I've gone on trips.

13 Q Okay. About how many trips?

14 A That's a hard one. I hunt, so I go out
15 on hunting trips. Sometimes those are far away.
16 I've been on a couple of those since the spill.

17 Q So if we thought about the time period
18 from December 22, 2008, to today, approximately
19 how many days would you have been gone from
20 home?

21 A Approximately two weeks.

22 Q And those would be primarily for hunting
23 trips you went on?

24 A Yes.

25 Q Does your wife accompany you on those

1 trips?

2 A No.

3 Q Has she taken her own separate vacations
4 during that period of time?

5 A Yes.

6 Q About how long has she been gone from the
7 house from the period of time December 22, 2008,
8 to the present?

9 A Well, she gets more vacation than I do, so
10 two weeks, I guess, or thereabouts.

11 Q Okay. Now, do you have hobbies or
12 activities that you keep yourself occupied with
13 since retiring?

14 A Yes, sir.

15 Q What would those be?

16 A Hunting. I have dogs, I have two
17 versatile hunting dogs.

18 Q Do you do carpentry?

19 A I piddle.

20 Q Paint?

21 A Paint, honey dos, yes. Gunsmithing, that
22 type of thing, archery.

23 Q Do you have a shop on your property?

24 A No, I just got my garage. I work out of
25 my garage.

1 Q Six months after the failure of the dike,
2 could you see some improvement in terms of the
3 condition where the dike had failed?

4 MR. DAVIS: Object to the form. It's
5 vague.

6 BY MR. SHERK:

7 Q You can answer.

8 MR. DAVIS: If you can.

9 THE WITNESS: If I can. Well, the
10 dredge -- the dredgers weren't there yet. They
11 picked up some -- best I recall, they picked up
12 some logs, stumps, things of that nature in the
13 first six months. That was about it.

14 BY MR. SHERK:

15 Q Let's look at the big map, Exhibit No. 1,
16 sir. Can you -- would you mark on the map where
17 the dike failed? Let's do it in black.

18 A It says where it failed.

19 Q Okay. Why don't you mark it, just based
20 upon your recall.

21 Q Okay. Where did the ash go?

22 A (Witness complies.)

23 Q Okay.

24 A Also, you can see it went that way.

25 Q Okay. When you look at the -- at the

1 Kingston Fossil Plant facility around the area
2 where the dike failed, within the first six
3 months were they working on removing the ash in
4 that area?

5 A First six months?

6 Q Yeah.

7 A I don't believe so.

8 Q Okay. What were they doing?

9 A I think they were scratching their heads.
10 But like I said, picked up some logs and stuff
11 with the barges with cranes on them, and they
12 were preparing for the dredging operations.

13 Q Okay. What happened, then, the following
14 six months within the first year after the
15 spill? What did you see in terms of remediation
16 efforts?

17 A They planned to, if I recall, get the
18 dredgers in April and have it dredged by the end
19 of summer, but that didn't happen. It was
20 slower than that. I think they brought the
21 dredgers in about June or so the following year
22 after the failure, and most of them are gone
23 now. I think they have some small ones.

24 Q That job's almost done, it looks to you?

25 A Well, it will never be done, sir. The

1 ash -- they won't get it all.

2 Q During the first year after the dike
3 failure, did you see trucks and backhoes and
4 other machinery on --

5 A Yes.

6 Q -- on the site of the failure?

7 A Yes.

8 Q What kinds of things were those vehicles
9 doing?

10 A They appeared to be put -- prepping the
11 site for the removal with riprap rock, that
12 type -- putting a road in, clearing the road
13 over there, the road. Swan Pond Road was
14 blocked, the railroad track was blocked.
15 Removing that house that got destroyed, the
16 one -- the one I could see the best. I
17 couldn't -- the one in the very upper end of the
18 cove, I couldn't see where the guy was there, I
19 couldn't see that house. But I could see the
20 big white house, and they removed it. I think
21 it's gone.

22 Q Were there helicopters involved in the
23 remediation efforts?

24 A Oh, yeah.

25 Q What were they doing?

1 A They were dropping hay. The Coast Guard
2 responded and brought in a choppers that dropped
3 hay in there.

4 Q Did you see trucks hauling ash away?

5 A I couldn't tell.

6 Q Did you see trains hauling stuff?

7 A Not in the first six months, no, sir.

8 Q How about the following six months?

9 A Oh, yes.

10 Q Okay. Does the site of the spill look
11 better today to you than it did right
12 afterwards?

13 MR. DAVIS: Object to the form. It's
14 vague.

15 THE WITNESS: They've dredged it out.

16 BY MR. SHERK:

17 Q Does the site of the spill look better to
18 you today than it did right afterwards?

19 MR. DAVIS: Object to form.

20 THE WITNESS: It's still pretty ugly.

21 BY MR. SHERK:

22 Q Is it an improvement to what it was right
23 after the spill?

24 MR. DAVIS: Object to form.

25 THE WITNESS: Prettier?

1 BY MR. CHASE:

2 Q Is it an improvement?

3 A Improvement than when it first spilt?

4 Q Yeah.

5 A Yeah, it's an improvement, I guess. But
6 you know, it's still there.

7 Q What would you like out of this lawsuit?

8 A Fair treatment.

9 Q What does that include?

10 MR. DAVIS: I'm going to object to
11 the question. The Complaint speaks for itself.

12 BY MR. SHERK:

13 Q I'm just asking if he --

14 A Fair treatment of class 1 in the resident
15 class.

16 DEPOSITION OFFICER: Pardon? Say
17 that again.

18 THE WITNESS: I can't tell how loud
19 I'm speaking. Class 1 -- excuse me -- in the
20 resident class.

21 BY MR. SHERK:

22 Q What does fair treatment consist of?

23 A Pardon me?

24 Q What does fair treatment consist of in
25 your mind?

1 A Well, obviously, I've stated I'd like to
2 be bought out, so I'd like fair market price
3 before the disaster.

4 Q Okay. The price -- the value of your
5 house before the disaster you're saying?

6 A Yeah. The way -- you know, it's not worth
7 anything now, so I don't want -- that wouldn't
8 be a fair market price.

9 Q All right. And you want medical
10 monitoring; is that correct?

11 A That's correct.

12 Q Okay. You're not making a claim for
13 personal injuries as I understand it?

14 A No.

15 MR. DAVIS: Asked and answered.

16 BY MR. SHERK:

17 Q You're not making a claim on emotional
18 distress; right?

19 A No.

20 Q Okay. Is there anything else you want?

21 A Well, the court can't give me what I want,
22 I don't think.

23 Q Your property is on 423 Emory River Road;
24 is that correct?

25 A Yes.

1 Q And you moved in there in 2000 you said;
2 is that right?

3 A Early '90s.

4 Q Early '90s, okay. I'm sorry. I knew I
5 had that wrong.

6 A Just don't go into the date thing.

7 Q I'll try not to, believe me.

8 And it is your residential property
9 that you're making a claim for; is that correct?

10 A Yes, sir.

11 Q And that's the only property you're making
12 a claim for?

13 A Including the community.

14 Q Right. Oh, right.

15 A Being a representative, yes.

16 Q Got you. Right. That's absolutely right,
17 yes.

18 You don't own two pieces of
19 property?

20 A No, I don't.

21 Q That's what I was getting at.

22 A It's a tract of property, 4.73 acres.

23 Q You -- since the spill, you have lived in
24 your house with your wife Penny; correct?

25 A Yes.

1 Q Has anybody else lived there with you?
2 A No, sir.
3 Q Your children?
4 A Visiting.
5 Q For longer than a week?
6 A No, just visiting.
7 Q Okay. How about grandchildren?
8 A Visit, yes.
9 Q But they haven't stayed with you for any
10 appreciable period of time?
11 A A week.
12 Q A week every now and then?
13 A Uh-huh.
14 MR. DAVIS: Say "yes" or "no,"
15 please.
16 THE WITNESS: I'm sorry. I'm
17 corrected.
18 Yes.
19 BY MR. SHERK:
20 Q Okay. In the year 2009, about how many
21 days would your grandchildren have stayed with
22 you?
23 A How many days?
24 Q Yeah.
25 A 30.

1 Q In the year 2010, this year, how many days
2 have your grandchildren stayed with you?

3 A Approximately two weeks, I guess.

4 Q So you're pretty close with your
5 grandkids?

6 A Oh, yes.

7 Q Have you had any adopted children stay in
8 your house since the spill?

9 A No, sir.

10 Q How about foster children? Any foster
11 children stay in your house since the spill?

12 A No, sir.

13 Q How about your aunts or uncles? Have they
14 stayed at your house since the spill?

15 A Unfortunately I don't have those anymore.

16 Q I'm sorry.

17 How about foreign exchange students?
18 Have any foreign exchange students stayed with
19 you since the spill?

20 A No.

21 Q Is there any person or category of persons
22 I have not covered that have stayed in your
23 house since the spill for over a week?

24 A No.

25 Q What county in Tennessee did you grow up

1 in?

2 A Sevier County.

3 Q And that's S-e-v-i-e-r?

4 A Yes.

5 Q Pronounced "severe"?

6 A Well, we pronounce it different, but yes.

7 Q There's a county in Missouri
8 called -- it's spelled Versailles, but they say
9 "Ver-sales."

10 MR. DAVIS: Let the record reflect
11 that Mr. Sherk tried a southern accent. It
12 didn't work.

13 THE WITNESS: You'll have to be here
14 a little longer to acquire that.

15 MR. SHERK: I think it may be too
16 late for me.

17 Q How did you choose the location of your
18 present home?

19 A Oh, we loved it. I mean it was -- it's
20 out secluded, lots of game, places to train my
21 dogs. That's what drew me -- good fishing,
22 recreational.

23 Q Just checking back in my notes. You moved
24 in your house approximately 1993?

25 A Approximately, yes, sir.

1 Q Was the house already there?
2 A No, I built it.
3 Q You built that house?
4 A Oh, well, I contracted it to be built, and
5 then somebody built it.
6 Q So you bought that lot?
7 A Yes, sir.
8 Q Did closeness to other members of your
9 family have any factor in your choosing that
10 lot?
11 A Yes, yes. We talked about, you know, my
12 wife's wanting to be close --
13 Q Is her family in the area?
14 A -- to her mother.
15 Q I'm sorry for interrupting. Please go
16 ahead.
17 A She wanted to be close to her mother
18 mostly, and of course her -- we didn't have
19 grandkids at that time, but you know, in the
20 same area with our daughters.
21 Q And do your daughters still live in this
22 area?
23 A Yes, sir.
24 Q Where do they live?
25 A Holly lives on Longville and Heather lives

1 on Hillcrest, I believe, is the name of the
2 street in Kingston.

3 Q They both live in Kingston then?

4 A They do.

5 Q And the recreational opportunities in the
6 area were something that attracted you to that
7 lot that you bought?

8 A Absolutely.

9 Q Hunting, dog training?

10 A Yes.

11 Q Archery?

12 A Yes.

13 Q Okay.

14 A Duck hunting.

15 Q Duck hunting.

16 A One more.

17 Q Was the proximity to work another factor?

18 A Yes.

19 Q And it's not too far from when you were
20 working there?

21 A Right.

22 Q Any other factors that went into the
23 reasons why you ended up purchasing the lot that
24 you did?

25 A It's wooded.

1 Q Let's see here. What direction is the TVA
2 facility from your residence?

3 A West.

4 Q How far by the crow flies is your house
5 from the TVA facility?

6 A I'm good on yardage. The facilities, not
7 the spill?

8 Q Yeah. Well --

9 A The lunarscape --

10 Q Yeah. How far are they --

11 A How far are they? Because that's what I
12 was zeroed in on.

13 Q Me too.

14 A 800 yards.

15 Q Oh, it's 800 yards. Okay. And that's
16 across the Emory River?

17 A There's a sand -- there's a little sand
18 island-like deal there. It's very shallow. So
19 that after it did its tsunami and some settled
20 here, the hard clumped together frozen stuff was
21 out here.

22 Q How far from your house are the two big
23 towers of the facility?

24 A Probably 1,500 yards to 2,000.

25 You got pictures from my deck.

1 Q I do.

2 Mr. Chesney, you've been handed Deposition
3 Exhibit No. 6, and I'll represent to you that
4 this is a compilation of four photos that we
5 received from your counsel. They're Bates
6 numbered 00017 through 00020.

7 A Yes, sir.

8 (Marked Exhibit 6.)

9 BY MR. SHERK:

10 Q Let's look at the first page of Exhibit 6.
11 What does that show us?

12 A First page?

13 Q Yes.

14 A That shows you a west by northwest photo.

15 Q Okay.

16 A The dark out there.

17 Q Yes.

18 A That's the ash, I mean the clumped-up
19 stuff and then down here as well.

20 Q Is this -- where was this taken?

21 A From our front yard.

22 Q Okay. So are you looking through the
23 trees into the Emory River?

24 A Yes.

25 Q Okay.

1 A It's a lake overlook.

2 Q I'm sorry?

3 A It's a lake overlook.

4 Q Okay. Let's put -- would you mark

5 your -- the location of your house on Exhibit 1,

6 please?

7 A What color would you like it? Red?

8 Q Yeah, that's what I was thinking.

9 A It may not match up okay with the last one

10 I marked.

11 Q Oh, that's okay. Okay, very good. Thank

12 you.

13 Now, this photo then has you

14 looking --

15 A You would be looking -- I'm sorry, go

16 ahead.

17 Q No, no. West from your property --

18 A Northwest -- oh, west by north, so you

19 would be looking in this general area.

20 Q Can you draw a little arrow from your

21 property?

22 A Can I draw an arrow?

23 Q Yeah.

24 A Okay. Here's west. So that's supposed to

25 be an arrow.

1 Q Okay.

2 A So that picture was taken this way.

3 Q Okay. From the deck of your house?

4 A From the -- this one's from the yard.

5 When I first spoke I said deck, but after

6 looking at it a little closer, it's the -- it's

7 the yard because there's a plant there, an

8 azalea.

9 Q Approximately when was this photograph

10 taken? I hate to ask you that.

11 A Sometime in '09.

12 Q 2009. All right. And are you certain you

13 were on your property when this was taken?

14 A Living there, yes.

15 Q No. When you were standing there, camera

16 in hand taking this photograph, are you certain

17 it was on your property?

18 A Yes, absolutely.

19 Q What do we see on the second page of

20 Exhibit No. 6? What does this show us?

21 A That's the front of my house.

22 Q Okay. What is your house made of?

23 A Cedar and stone.

24 Q Okay. Moving to page 3 of Exhibit 6, what

25 does this page depict?

1 A That's the side of my house.

2 Q Okay.

3 A The back side.

4 Q This is the back side of your house, page
5 3 shows?

6 A Yes, sir.

7 Q And the final page, page 4, what does that
8 show us?

9 A That's awful dark. That's the side of the
10 house facing the lake.

11 Q Yeah. It was tough to make out what these
12 were showing which is why I wanted to get your
13 input.

14 Were all these photographs taken in
15 2009?

16 A Yes.

17 Q It looks as if they were taken in the
18 winter months or early spring because the trees
19 don't have any leaves on them?

20 A Yes.

21 Q Would you agree with that?

22 A I'll agree, yeah.

23 Q Does that help kind of direct you toward a
24 specific month that these may have been taken?

25 A January, February.

1 Q Something like that, it looks cold.

2 A There's a light snow on the ground, and I
3 believe so. It can snow in April here, too, but
4 I believe that was earlier.

5 Q Okay. All right.

6 Did you provide your counsel with
7 color photos or black and whites?

8 A Color.

9 Q Color. Okay. Were these digital photos?

10 A Yes.

11 MR. SHERK: Gary, if we could get a
12 color set of these, this quartet.

13 MR. DAVIS: Yeah, we'll do that.

14 MR. SHERK: Thank you.

15 MR. DAVIS: I don't know what form
16 that you provided them in. Did you provide them
17 electronically?

18 THE WITNESS: No, I mailed them in.

19 MR. DAVIS: You mailed color copies?

20 THE WITNESS: Yes.

21 MR. DAVIS: Okay, we'll provide
22 those.

23 MR. SHERK: Great. Thank you.

24 Q Mr. Chesney, you're being handed Exhibit
25 No. 7, and I'll represent to you that was an

1 aerial photo of your house that was taken
2 January 9, 2009.

3 Do you recognize the image on this
4 photograph?

5 A I see my driveway. I can't really make
6 out the house. I believe that's it there. It's
7 shielded by the trees it appears.

8 (Marked Exhibit 7.)

9 BY MR. SHERK:

10 Q You, it appears, live on a very densely
11 wooded lot; is that correct?

12 A Yes.

13 Q Is that -- can you tell that that's your
14 house right there?

15 A Yes.

16 MR. DAVIS: I'm going to object to
17 the question because "right there," it has no
18 meaning.

19 THE WITNESS: It's in that
20 area -- it's in the trees, so somewhere in
21 there.

22 BY MR. SHERK:

23 Q Does this look like a fair and accurate
24 photograph of your house that was taken on
25 January 9, 2009?

1 MR. DAVIS: Object to the question.

2 You may answer.

3 THE WITNESS: It's accurate, but not
4 clear.

5 BY MR. SHERK:

6 Q Kind of fuzzy?

7 A Yeah. Yeah, it is.

8 Q Mr. Chesney, I'm handing you Exhibit
9 No. 8. I'll represent to you that this is the
10 very same photograph that appears in Exhibit
11 No. 7 except we superimposed the tax parcel map
12 onto the photograph.

13 Do you see that?

14 A Uh-huh. I mean, I see the outline.

15 (Marked Exhibit 8.)

16 BY MR. SHERK:

17 Q Right. Does that look as if it is
18 accurately rendering the dimensions of the lot
19 that you own?

20 A It goes a little -- the boundary is more
21 like -- right in here, I think. I can't really
22 tell where my house is at, so I can't. Maybe
23 it's in here. I know this pond is not on my
24 property. Okay?

25 Q All right.

1 A That's a pond there.

2 Q Could that be the shadow of your house?

3 A I don't know. I don't believe it is,
4 but --

5 Q Give me one second, Mr. Chesney. Maybe I
6 can help things out a little bit.

7 Mr. Chesney, I've just marked
8 Exhibit No. 9. I'll represent to you that this
9 is a blow-up version of Exhibit 7.

10 Is this image any clearer to you?

11 A No, sir. It appears to be snow on the
12 ground and the trees have snow.

13 (Marked Exhibit 9.)

14 BY MR. SHERK:

15 Q That was taken January 9 of 2009.

16 A I was just looking for brown because my
17 house is brown. There's a tree there. That's
18 definitely a pond. I don't know what that is.
19 That's my driveway.

20 Q That's your driveway. Does it come up to
21 here?

22 A No. I believe my house would be more
23 like in here. Maybe this. In there, that's on
24 the -- that's on Dickey Valley Road there,
25 maybe -- maybe -- oh, I'm sorry. Let me bring

1 that back. That's a field pasture, a field.

2 Q Could that be the roof of a house right
3 here in the shadow?

4 MR. DAVIS: Object to the form.

5 THE WITNESS: Pardon?

6 MR. DAVIS: I just objected to the
7 form of the question.

8 THE WITNESS: I don't know. I don't
9 think. It would be an awful big house, wouldn't
10 it?

11 BY MR. SHERK:

12 Q Do you have a pool in your backyard?

13 A No.

14 Q So that --

15 A I don't know what that is. I think it's a
16 pasture field myself.

17 Q Okay.

18 A It's farm country, so --

19 Q Farm country, all right. Let me try this.

20 Mr. Chesney, let me give you what's
21 been marked as Exhibit No. 10, and I'll
22 represent to you this is another aerial
23 photograph taken January 9, 2009. It's at a
24 higher level which shows Emory River Road, the
25 Emory River and the tax parcel property lines of

1 your property.

2 Does that look familiar to you?

3 A Yes.

4 MR. DAVIS: Object to form.

5 THE WITNESS: Yes, it looks like
6 this.

7 (Marked Exhibit 10.)

8 BY MR. SHERK:

9 Q Do you see the orange outline of the lot
10 of your property there?

11 A Yes.

12 Q It looks as if there are properties in
13 between you and the river; is that correct?

14 A Yes.

15 Q Okay. So you do not have river -- you
16 don't have a riverfront property?

17 A No. It's overlook property. It's
18 overlook property.

19 Q Overlook property, great.

20 Because there -- from Emory River
21 Road, is this a pretty steep incline up to your
22 house?

23 A Yes.

24 Q About how many yards of -- of driveway is
25 there from Emory River Road to your house?

1 A 1,000 plus feet.

2 Q Okay. And does the driveway steadily rise

3 up all the way?

4 A Yes.

5 Q Okay. All right. I believe you bought

6 this property in 1993; correct? Thereabouts?

7 A Thereabouts.

8 Q Did you begin building your house

9 immediately?

10 A No, not immediately.

11 Q When did you start building your house?

12 A About probably six months after acquiring

13 it.

14 Q All right. Who was your builder?

15 A Who's my builder?

16 Q Yes.

17 A Joe Sexton from Oneida, Tennessee.

18 Q Is he still in business?

19 A I do not know. Excellent builder, very

20 good.

21 Q You were satisfied with your house?

22 A Absolutely.

23 Q Is it a well-built house?

24 A He was \$50 over budget.

25 Q That's remarkable.

1 A Yeah, I thought so too.

2 MR. DAVIS: Give me his name.

3 THE WITNESS: He went up and beyond
4 because of the nature of where we wanted the
5 house. He's a good man.

6 BY MR. SHERK:

7 Q So did he have to clear a path for the
8 driveway and for your house?

9 A No, we had it prepped before -- excavated
10 I mean.

11 Q Your house is built of stone and cedar, I
12 believe you said?

13 A Yes, sir.

14 Q Okay. How many floors?

15 A If you count the basement, that would be
16 three, but --

17 Q Approximately how many square feet does
18 your house consist of?

19 A Oh, I think all -- garage, basement is 23,
20 I think.

21 Q 2,300 feet?

22 A Thereabouts, yeah. I'd have to look at
23 old drawings and stuff.

24 Q How many bedrooms does it have?

25 A Three.

1 Q Three bedrooms?
2 A Yes, sir.
3 Q How many bathrooms?
4 A It has two and a half, they call it.
5 Q And I believe you said there's no swimming
6 pool?
7 A No.
8 Q Okay. It does have a basement?
9 A Yes.
10 Q What?
11 A Not a full basement, I'm sorry. It's
12 three-quarter.
13 Q What is the foundation made of?
14 A Concrete -- concrete block.
15 Q Have you ever had any foundation problems?
16 A No.
17 Q Solid foundation?
18 A Absolutely.
19 Q Have you ever had your house tested for
20 radon?
21 A No, sir.
22 Q Ever been a concern of yours?
23 A Well, it's there. I know it's there, but
24 the nature of digging into the ground. So we
25 have a monitor, an alarm thing that goes off if

1 we have high readings, but we never had any.

2 Q Do you have a radon alarm in your
3 basement?

4 A Not in the basement. That's fair.

5 Q Okay.

6 A The basement is not finished.

7 Q What other substances does your alarm
8 detect?

9 A Heat.

10 Q Carbon dioxide?

11 A I believe so. Yeah, I think so. We've
12 the got one on each floor, but
13 we've got one in our bedroom that's a little
14 more -- has more bells and whistles on it.

15 Q Okay. So you've got monitors on each
16 floor of your house that detects --

17 A Smoke alarms, yes.

18 Q And they detect smoke, and they detect
19 radon?

20 A The one -- I think the one -- I'm not sure
21 the one in the bedroom does. I think it does.

22 Q All right. Now, do you have a porch on
23 your house?

24 A I have a deck in the front. Yeah, you've
25 seen the front porch.

1 Q A deck. Do you use that often?
2 A Oh, absolutely.
3 Q Your windows were original to the house?
4 A Yes.
5 Q 1993?
6 A Yes.
7 Q Or so.
8 A Or so. Anderson.
9 Q Anderson, so they're a good quality
10 window?
11 A Absolutely.
12 Q Do they still fit well?
13 A Yes.
14 Q Nice, snug fit?
15 A Yes, sir.
16 Q Do you have central air conditioning?
17 A Yes, sir.
18 Q Have you had that the entire time that
19 you've owned the house?
20 A I had to replace that unit prior to the
21 spill.
22 Q When you originally built the house, it
23 didn't have window units or anything like that?
24 A No.
25 Q It was central air from the beginning?

1 A It was a split unit, propane and
2 electrical.

3 Q Is that what it is today?

4 A No, no. I swapped it out for a heat pump.

5 Q Oh, okay. Does it work well?

6 A Absolutely. It's great. I don't have the
7 heavy truck's traversing the driveway. That was
8 a deciding factor, they break the concrete.

9 Q Oh, the propane trucks?

10 A Yeah, gets stuck. Uh-huh.

11 Q What type of flooring do you have in your
12 house?

13 A The upstairs has carpet that was replaced
14 before, just before the spill. We also added
15 hardwood flooring, parquet flooring to the
16 downstairs. We have laminate in the kitchen,
17 linoleum in the bathrooms. The basement has a
18 concrete floor.

19 Q Okay. Since building your house in 1993
20 or 1994, have you undertaken any remodeling
21 jobs?

22 A The ones I listed, floors.

23 Q Floors, okay. Wood floors.

24 A Replaced the heat and air.

25 Q Okay. All right. Anything else?

1 A We added to the driveway -- we added
2 pavement to the driveway.

3 Q What was your driveway originally?

4 A Rock.

5 Q Okay.

6 A And we had it concreted down the -- as we
7 could afford it, we've added.

8 Q Sections after sections?

9 A Yeah.

10 Q Did you start at the bottom and move up or
11 start at the house and move down?

12 A You got to start at the house and move
13 down.

14 Q Okay. How would you compare your house to
15 your next-door neighbor's house?

16 A Bigger, better kept.

17 Q Do you think it's worth more?

18 A Oh, yeah. It's my immediate neighbor's
19 small house.

20 Q You looked on Exhibit 10. Which direction
21 would those neighbors be?

22 A That neighbor would be -- you could see
23 his driveway. Right there. I believe that
24 would be him.

25 Q See if you could mark that. I don't know

1 if this will show up. Try marking that neighbor
2 in red.

3 A (Witness complies.)

4 Q There we go. All right. And as to the
5 houses in general, how would you compare your
6 house to the houses in the neighborhood in
7 general?

8 MR. DAVIS: Object to the form. It's
9 vague.

10 THE WITNESS: Comparable.

11 BY MR. SHERK:

12 Q Comparable, okay.

13 Have you -- has your driveway made it
14 all the way down to the street in concrete yet?

15 A No.

16 Q So it's a work in progress?

17 A Yes, sir.

18 Q All right. We got four photographs from
19 you in the materials that we received from your
20 counsel.

21 A Yes, sir.

22 Q Is that the number that you gave them?

23 A I don't recall how many I gave them.

24 Q Okay. Do you ever use any part of your
25 property for agricultural purposes?

1 A Prior to the spill I had a garden.

2 Q Let's talk about that.

3 Where was your garden located on
4 your property?

5 A Just anywhere I wanted to plant, tomato
6 plants primarily, for our own use. I didn't
7 market anything out of this.

8 Q What period of time did you grow tomatoes?

9 A Early spring till about now. Now they're
10 gone.

11 Q So from when you moved in -- when did you
12 move into this house? When was it completed?

13 A October of that year.

14 Q '94 probably?

15 A I think so, yeah.

16 Q Okay. So for how many years did you have
17 tomato plants?

18 A I had to make them.

19 Q How many years have you had your garden
20 with tomatoes?

21 A Oh, just off and on, you know.

22 Q Did you grow anything else there?

23 A I mean, it grows naturally. Lots of
24 weeds.

25 Q Did you ever keep any kind of livestock on

1 your property?

2 A As I've mentioned, I have versatile
3 hunting dogs.

4 Q No cows or horses?

5 A Huh-unh.

6 Q Mules, donkeys?

7 A No.

8 Q No llamas?

9 A No llamas. No alpacas. I've thought
10 about that, but --

11 Q I think you intimated that the spill may
12 have influenced your decision as to whether or
13 not to plant tomatoes?

14 A Yes.

15 Q What can you tell us about that?

16 A Well, I'm just not comfortable about it
17 because I'm not -- you know, prevailing winds
18 are out of the West, so I realize of course
19 that's blowing to me and, you know, I don't
20 know, so I never chanced it.

21 Q All right. Have you used your property
22 for commercial purposes of any kind since
23 purchasing it?

24 A No.

25 Q You don't have a shop on the property?

1 A Not that I sell anything out of, no.

2 Q So you're not fixing anybody's car or
3 making furniture, birdhouses or fountain pens,
4 anything like that?

5 A Not yet.

6 Excuse me. Can I just have a
7 bathroom break?

8 Q Oh, absolutely. Yeah, please. Any time.

9 THE VIDEOGRAPHER: This marks the end
10 of tape No. 2. Going off the record. The time
11 is 11:31.

12 (Recess.)

13 THE VIDEOGRAPHER: On the record.
14 This marks the beginning of tape No. 3. The
15 time is 11:46.

16 BY MR. SHERK:

17 Q Mr. Chesney, we have just taken a quick
18 break. We were talking about your property, and
19 we've established, I think, that you've never
20 run any kind of commercial business --

21 A No.

22 Q -- out of your property?

23 In terms of pets on your property, I
24 believe you said you had two dogs?

25 A Yes, sir.

1 Q Have you had other pets on your property
2 over the course of the years?

3 A Cats. My wife -- these dogs and kitty
4 cats don't mix well. They'll kill them, so we
5 don't have cats anymore.

6 Q Did you have your dogs before the spill?

7 A Yes, sir.

8 Q Have they been affected by the spill as
9 far as you can tell?

10 A They've -- yes, sir. They've went -- I
11 didn't allow them to, they ran off to the lake,
12 come back with that stuff all over them. The
13 female even passed some of it.

14 Q I'm sorry.

15 A Passed, as in pooped.

16 Q Okay.

17 A Ash, real dry. This stuff, I washed it
18 off of them, yeah.

19 Q So do you still allow them to get in the
20 lake?

21 A No, that was their idea, not mine.

22 Q All right. So you try to keep tabs on
23 them?

24 A Yes, sir.

25 Q But sometimes --

1 A They're inside-outside dogs. They are in
2 a kennel at night, and then we have them out
3 during the day.

4 Q Have they been able to roam free since the
5 spill during the day?

6 A No. I mean they're dogs. They run off,
7 you know, for the excitement. They like to kill
8 raccoons, so that's where the raccoons are at.

9 Q In the woods?

10 A In the lake, around the lake.

11 Q How many acres is your property?

12 A 4.73.

13 Q And other than your house, there's nothing
14 on it; correct?

15 A No, that's it.

16 Q There's not a barn or a --

17 A No, I don't have any outbuildings.

18 Q You talked about the prevailing winds a
19 little bit earlier.

20 Do you remember that?

21 A Yes, sir.

22 Q Do those winds ever shift?

23 A Sure.

24 Q For example, do they vary by season?

25 A Well, you know, they call it west,

1 westerly winds are prevailing winds. So you
2 know, we get a wind out of the east, then it's
3 going to come from the east. A storm, a cold
4 front is going to be from the north.

5 Q Winds can shift --

6 A Rain -- most likely a good soaking rain
7 will come from the south.

8 Q So winds can shift day to day or even
9 during the day?

10 A Yeah.

11 Q Just depends.

12 I believe you said that you use your
13 property for hunting?

14 A Yes, sir.

15 Q You hunt beyond your property though, too,
16 as well?

17 A I take trips, and I have properties I
18 hunt, or did, close by.

19 Q If you look, for example, at Exhibit 8
20 which shows the parameters of your parcel of
21 land, is that enough land to get a good hunting
22 in?

23 A It's small for hunting, but a heavy
24 concentration of deer and turkey. I've shot
25 turkey within the side of my house, not off my

1 deck. I've got pretty good hunting there, so I
2 draw the line there. But that was one of the
3 reasons that I wanted to live there, is for the
4 game. Quail -- there's quail, rabbit.

5 Q Do you do any trapping on your property?

6 A Yes.

7 Q Okay. What kind of things do you trap?

8 A Raccoon.

9 Q Oh, and that's just to get rid of them?

10 A Well, this club don't like you saying that
11 publicly, but they use them in what they call a
12 hardness test, so I've trapped them for that.

13 Q What would that -- what's that?

14 A The dogs got to kill or choke it down to
15 where it's not going to make it.

16 Q Do you trap anything else?

17 A I've trapped rabbits for training. We
18 don't kill those.

19 Q When you hunt, are you able to venture off
20 your property?

21 A To the property that I have permission to
22 hunt on, yes.

23 Q So your neighbors allow you to hunt on
24 their property?

25 A Some do, some don't.

1 Q What other activities do you use your
2 property for?

3 A Like I said, training.

4 MR. DAVIS: I'm going to object to
5 the question because it doesn't specify the
6 period of time.

7 BY MR. SHERK:

8 Q You can answer.

9 A Before the spill, I used it for training
10 purposes, exercise. I have not done that since.

11 Q You haven't done any training since 2008?

12 A Huh-unh.

13 Q Okay.

14 A Not there. I've done training.

15 Q Whereabouts?

16 A I go off to various places, wildlife
17 management areas.

18 Q Okay. You've continued to hunt on your
19 property since the spill?

20 A No, no.

21 Q You have not hunted since December of
22 2008?

23 A I have hunted, but not there.

24 Q Do you do yard work?

25 A Yes.

1 Q Do you cut the -- well, it looks like your
2 lot's actually pretty-well wooded. Is there
3 grass to cut?

4 A Yeah, grass and weeds.

5 Q Right around your house?

6 A Yeah, around my house and down in front.
7 You can see the field there. I mow there.

8 Q You did that before the spill?

9 A Yes.

10 Q And you've continued to cut the grass and
11 the weeds?

12 A Yeah.

13 Q Okay. So I just want to make sure.

14 It's your testimony, Mr. Chesney,
15 that you have not hunted at all on your property
16 since the spill?

17 A I don't recall hunting it, no.

18 Q Why is that?

19 A I don't feel comfortable -- I eat what I
20 kill mostly. I don't want to eat that. They've
21 drank out of the river, and I think there may be
22 lead and arsenic in it. That's the primary --
23 that's the primary reason.

24 Q Okay. Why don't you train your dogs on
25 your property since the spill?

1 A There's no need to. I mean, I -- if I
2 have to -- they have been tested and certified,
3 so if -- to brush up on their training, I go
4 somewhere else.

5 Q So they've already been trained?

6 A Yes, but it's not you train and quit.
7 Dogs forget. They're like humans, so you have
8 to remediate sometimes.

9 Q And that remediation work with your dogs
10 you do at another place?

11 A Yes, because it will involve water work.
12 They are, as I said, versatile hunting dogs, so
13 they, you know, retrieve in water, blood track,
14 they track rabbits, they hunt raccoons, they
15 point birds.

16 Q So you've trained them to do all those
17 things?

18 A Yes, sir.

19 Q Do you belong to a kennel club or
20 something like that?

21 A Yes.

22 Q Where is that club located?

23 A Southeast, they're all over the United
24 States.

25 Q Is there one in Kingston?

1 A No.

2 Q Or Harriman?

3 A No.

4 Q None in the area?

5 A The closest one -- well, it covers, you

6 know, the -- it's incorporated into sections of

7 the United States, so -- okay, you have

8 Southeast, Northwest, Midwest, like that.

9 Q Are you involved in a hunting club?

10 A No. No, just the dog club.

11 Q All right. Let's talk about the -- have

12 you stopped trapping raccoons since the spill?

13 A Yes. I have no need to.

14 Q Why is that?

15 A They've been hardness certified.

16 Q Oh, okay. So they are okay.

17 A Yeah.

18 Q Have you been trapping anything since the

19 spill?

20 A No.

21 Q Are you a fisherman?

22 A Yes, somewhat. More of a hunter than a

23 fisherman.

24 Q Okay. Where do you fish?

25 A I don't fish there no more, okay.

1 Q Where did you fish before the spill?

2 A There.

3 Q There means?

4 A Right across -- you can see from my house.

5 We used to crappie fish in that cove right

6 there that was wiped out where the white

7 house -- where the white house was. There was

8 a small, a pretty large creek that come in

9 there, and there was a lot of crappie in there.

10 So I've done quite a bit of crappie fishing in

11 there. It's very good eating.

12 Q Where do you fish since the spill?

13 A On vacation usually we go to maybe the

14 coast or the Gulf and fish there, saltwater

15 fishing, or go to another, you know, Norris

16 Lake, to walleye fish.

17 Q Did you go to Norris Lake before the

18 spill?

19 A Uh-huh, yeah. It's very nice.

20 Q Did you go to the Gulf before the spill?

21 A Yes. Which spill? No, I haven't been

22 since the oil spill, but they say it's okay to

23 eat that seafood, but --

24 Q Let's say prior to the spill, in 2007, how

25 many times did you fish in the Watts Bar

1 Reservoir?

2 A 2007. I was heavy into training my latest
3 dog, so I didn't do much. Once or twice -- I'm
4 guessing once or twice, maybe. I don't know.
5 We were in the water a lot, but --

6 Q Not fishing.

7 A My oldest dog likes to try to catch fish,
8 but --

9 MR. DAVIS: Very versatile dog.

10 THE WITNESS: Yes, but he gets cut,
11 doing that, on his pads.

12 BY MR. SHERK:

13 Q Do you -- are you much of a boater?

14 A Well, you've seen our driveway. We had a
15 boat before we moved there. So if we're going
16 to do any of that, we're going to rent a boat,
17 you know, or get invited by someone else.

18 Q So you don't own a boat?

19 A No more. I sold it.

20 Q Before you moved in?

21 A Yes.

22 Q In 1993?

23 A Yes.

24 Q Do you do any jet skiing?

25 A No.

1 Q Do any water skiing?

2 A I did when I was a younger man.

3 Q But none since moving to the Emory River
4 Road?

5 A Oh, yeah, I've -- you know, I just
6 got -- suddenly got old. So yeah, I've skied
7 after, you know, my 50s, yeah.

8 Q Where would you ski then?

9 A There was a nice island. They called it
10 the little sand island just up the Emory. That
11 was a good hangout in that area.

12 Q Okay. Do you -- you haven't skied in a
13 while I take it?

14 A No, I haven't.

15 Q It's pretty hard on you?

16 A I would say so.

17 Q I would say so, too, yeah.

18 When do you think was the last time
19 you water skied was?

20 A Oh, gosh. Our neighbors had a pontoon
21 boat. We used to ski, after '93 sometime.

22 Q 1993?

23 A (No audible response.)

24 Q Could that pull you out of the water?

25 A That pontoon boat? Yeah, it will pull you

1 out. Drag you a ways, but it would pull you
2 out.

3 Q Are you not skiing now because of the
4 spill?

5 A Well, I wouldn't ski if it hadn't
6 spilled. I mean, I won't get in the water
7 there, I haven't been in it since then. But I
8 would not ski because of back, and you know --

9 Q I don't ski because of my back.

10 A -- age. Yeah, and I don't want to
11 go -- you know, it will happen. Your back will
12 hurt anyway, but I know that would hurt. I snow
13 ski, so I have not done that either, so --

14 Q What kinds of entertaining do you do at
15 the house?

16 A Barbecuing.

17 Q Who do you have over?

18 A Friends, relatives. Mostly relatives.

19 Q All right. Do you have kind of an outdoor
20 entertaining existence at your place?

21 A Before the spill we barbecued on the deck,
22 and it faces the steam plant. Since then we've
23 moved it -- I've moved it to the garage.

24 Q Okay. When you have folks over, where do
25 you go, generally?

1 A Where do I go?

2 Q Uh-huh. Like where do you hang out? The

3 deck or out in the living room?

4 A Yeah, living room, deck, or go

5 four-wheeling, so --

6 Q You've got a four-wheeler?

7 A Yeah.

8 Q Where do you generally go with your

9 four-wheeler?

10 A I use it for exercising my dogs.

11 Q Oh, they follow you?

12 A We've worked out a way. They ride on it

13 till I get to the place I want to -- for them to

14 exercise, and they know, you know, we have an

15 understanding that they'll stay close by most of

16 the time. So they run beside. And before the

17 spill, I would run them, and their being

18 retrievers, I would go down on that peninsula

19 and do some retriever work there, you know.

20 Q Right. And now what do you do?

21 A I don't -- I still do the running, but if

22 I'm going to do water work, I go somewhere else,

23 another part of the lake.

24 Q Okay. Where did you take them? What

25 other part of the lake?

1 A There's a boat ramp on the -- up near the
2 Cumberland Utility.

3 Q Which exhibit are you looking at there?

4 A 4. Sportsman Club. It's in this general
5 area right here.

6 Q Why don't you mark that in blue.

7 A Make a big mark because -- cross there,
8 right here. I'll make a big blue mark.

9 Q Okay. So that's the area that you
10 exercise your dogs?

11 A Water works there, yes.

12 Q All right.

13 A If I'm looking at this right, it would
14 be -- there's a boat ramp there and there's a
15 cove next to it. Across -- there's a bridge
16 there across.

17 DEPOSITION OFFICER: Excuse me.
18 Could you just lift it a little bit? There's
19 interference with the video. Thank you.

20 THE WITNESS: That general area.

21 BY MR. SHERK:

22 Q Why don't you mark that, put "dog run" or
23 something like that.

24 A I'm going to put "water work" because
25 that's what it is, mostly. It's a lot of play,

1 too.

2 Q Do your outside activities vary by the
3 season?

4 A Yes.

5 Q I would think as a hunter that they
6 probably would.

7 A Yes, unless you're very hungry.

8 Q How does your -- how does the hunting
9 season unfold in terms of what game you can go
10 after and when?

11 A Well, it's not there all year. Deer
12 season starts with archery on the third Saturday
13 of September and it will run through to like
14 the -- I hadn't seen this year's hunt pamphlet,
15 but I -- typically it will run to the second
16 week in January.

17 Q Do you think this fall you may do some
18 hunting on your property?

19 A No. No, sir.

20 Q Where do you go to hunt now?

21 A There's wildlife management areas around
22 here I can hunt on.

23 Q Like whereabouts are those?

24 A Just you point in any direction. We have
25 a lot of hunting opportunities here, so --

1 Q Are they far from your place?

2 A Not, not all -- there's a huge one that's
3 Cottus area that's west of here.

4 Q Okay. Do you believe that ash has gotten
5 on your property?

6 A Yes.

7 Q Okay. How's it gotten there?

8 A By airborne.

9 Q All right. Obviously, no ash got on your
10 property because of the water because you don't
11 have a waterfront property?

12 MR. DAVIS: Object to form.

13 THE WITNESS: I don't have a
14 waterfront property, that's true, but there's a
15 culvert and a creek that connects through
16 the Riggs property. But I did not see
17 any -- whether it's this, I don't know.

18 BY MR. SHERK:

19 Q All right. Have you done any air
20 monitoring of your property?

21 A No.

22 Q Mr. Chesney, I've handed you what is
23 Exhibit No. 11, and I'll represent to you that
24 this is a document entitled "Warranty Deed."

25 Do you see that?

1 A Yes, sir.

2 (Marked Exhibit 11.)

3 BY MR. SHERK:

4 Q And does this warranty deed pertain to the
5 purchase of your lot?

6 A Well, I'm still reading it, but it appears
7 to. So I was wrong. You got me on the date.
8 1989.

9 Q It looks like you bought the place in '89.

10 A What does that mean?

11 MR. DAVIS: That's what --
12 pertinences are what's on the land.

13 THE WITNESS: Okay. Timber, rock,
14 that sort of thing?

15 MR. DAVIS: Yeah.

16 THE WITNESS: Okay.

17 BY MR. SHERK:

18 Q I actually don't have many questions about
19 this. I feel guilty.

20 A I think the date's been changed.

21 Q All right. This is the -- you know, the
22 deed to the property you bought; correct?

23 A (No audible response.)

24 Q And it looks like it was 1989; correct?

25 A That's what it says, yes.

1 Q How much did you pay for this piece of
2 land?

3 A This says \$6,000.

4 Q Is that right?

5 A That was a good deal, huh? Yeah. Amount
6 which the property -- yeah, I didn't remember
7 that, but yeah.

8 Q All right.

9 A I should have bargained a little more.

10 Q And you built your house on the property;
11 correct?

12 A Yes, sir.

13 Q How much did your house cost to build?

14 A I declare, as I say, I did a lot of work
15 myself under the contractor's approval.

16 Q You worked with him?

17 A Yeah. He was very strict, so we had to
18 meet his standards or he-- you know, he wouldn't
19 allow it. I think we spent -- borrowed a total
20 of 110, I think. We used money we had, too, to
21 supplement, to the best of my knowledge.

22 Q Sure. What would you ballpark it then?

23 A Pardon me?

24 Q What would you ballpark it, as a figure,
25 that it cost to build your house for?

1 A 150.
2 Q 150?
3 A Yeah.
4 Q Okay.
5 A Not including my labor and what we
6 put -- money we spent on it. Yeah, thereabouts.
7 Q All right. Let's go back to the -- let's
8 say the summer of 2008 before the spill. I
9 think you testified earlier that -- that to be
10 treated fairly in this case, you would want to
11 be paid the value of your house pre spill; is
12 that right?
13 A Yes.
14 Q What would that have been in your
15 estimation, in the summer of 2008?
16 MR. DAVIS: Object to form.
17 You may answer if you know.
18 THE WITNESS: I can only say that,
19 you know, I know what it was appraised for.
20 BY MR. SHERK:
21 Q What was that?
22 A And I believe it was 268, I think, or 68
23 or 63.
24 Q Have you got that appraisal?
25 A No. I sent it to my attorney.

1 MR. DAVIS: Did we provide that?

2 THE WITNESS: Oh, the 2008?

3 MR. SHERK: Yes.

4 THE WITNESS: I think -- I don't
5 recall which one I sent. I sent one or two.

6 MR. SHERK: I looked, and I did not
7 see one in the materials.

8 MR. DAVIS: If we had one, we gave it
9 to you. That's all I can say.

10 MR. SHERK: Well, I took a special
11 look.

12 THE WITNESS: We thought we sent one,
13 I'm pretty sure. It must have gotten lost in
14 the --

15 MR. SHERK: I made a search last
16 night, and I didn't see one.

17 MS. FRY: We'll get it to you.

18 THE WITNESS: Okay.

19 MR. SHERK: It's a 2008 appraisal.

20 MR. DAVIS: There was a 1995
21 appraisal which we produced, I believe.

22 Do you have that one?

23 MR. SHERK: Yeah.

24 Q Since you've built your house --

25 A Yes.

1 Q How many times has it been appraised?

2 A I think the -- I think it's every five
3 years.

4 MR. DAVIS: He must be talking about
5 the tax appraisals.

6 MR. SHERK: Tax appraisals.

7 MR. DAVIS: That's what it is.

8 THE WITNESS: Yeah, I'm talking about
9 -- what are you talking about.

10 BY MR. SHERK:

11 Q Like real estate appraisal for refinancing
12 your home.

13 A Oh, no. No, I'm on another track.

14 Q Oh, I may have the tax appraisals, so
15 we'll look at those in just a minute.

16 MR. DAVIS: Those are public records,
17 so we probably didn't provide those.

18 THE WITNESS: I don't have -- I don't
19 have any real estate appraisals.

20 BY MR. SHERK:

21 Q Okay. All right. That, that --

22 MR. DAVIS: I gave one.

23 THE WITNESS: Is there one?

24 MR. DAVIS: This's a 1995 one which
25 we produced.

1 BY MR. SHERK:

2 Q So anyway, you built your house. And did
3 you ever have it appraised for purposes of
4 borrowing money, refinancing, that kind of
5 thing, up to today?

6 A I believe we did.

7 Q 1995 you say?

8 A Oh, since 1995 you mean?

9 Q Maybe you did an appraisal in 1995; is
10 that right?

11 A I'm sure to close it out there was. I
12 mean the bank's going to want to know is it
13 worth anything.

14 Q Uh-huh.

15 A I think -- I sent in everything I had
16 so --

17 Q Okay. This might be a good time to take a
18 take a lunch break.

19 MR. DAVIS: Okay.

20 MR. SHERK: Does that sound good to
21 you?

22 MR. DAVIS: Uh-huh. How long?

23 MR. SHERK: Let's shoot for 45
24 minutes.

25 THE WITNESS: You don't want to just

1 finish?

2 THE VIDEOGRAPHER: Going off the
3 record. The time is 12:15.

4 (Lunch recess.)

5 THE VIDEOGRAPHER: Back on record.
6 Time is 1:13.

7 MR. DAVIS: Before we start, can I
8 correct something in the record that Mr. Chesney
9 said earlier today?

10 You had asked him in a question that
11 was so fast, I didn't even hear -- or the
12 answer, whether he had ever been convicted of a
13 crime. And the record should reflect that
14 Mr. Chesney had a reckless driving conviction
15 that he pled guilty to in 1995.

16 So he wasn't sure whether that was a
17 crime or not and raised that question to me
18 during the lunch break. That is the only crime
19 that he's ever been convicted of, and as you
20 know that would not be admissible under the
21 Federal Rules of Evidence anyway.

22 MR. SHERK: I appreciate that
23 clarification. Thank you.

24 Q Okay, then. We've had a nice lunch break,
25 and we're ready to hit the final stretch, okay,

1 Mr. Chesney?

2 A Okay.

3 Q Sound good?

4 A Sounds better.

5 Q All right. You have been handed Exhibit
6 12; correct?

7 Do you see that?

8 A Yes.

9 (Marked Exhibit 12.)

10 BY MR. SHERK:

11 Q I'll represent to you that that's a
12 document entitled "Deed of Trust."

13 Do you see that?

14 A Yes.

15 Q On the very back page of the deed of
16 trust, there is a date right by the notary stamp
17 that says March 27 -- excuse me, March 26, 2007,
18 toward the bottom of the page.

19 A March what?

20 Q 26th.

21 A 26th?

22 Q That's right, yeah. Do you see that?

23 A Yes.

24 Q Is that the date that you entered into
25 this deed of trust?

1 A Yeah. I trust the document.

2 Q Me too. What was the circumstances behind
3 the execution of this deed of trust?

4 A A loan.

5 Q I actually don't have that many questions
6 about this document. That's the good news,
7 Mr. Chesney. But let me ask you this again.

8 What were the circumstances behind
9 your entering into this deed of trust?

10 A The loan.

11 Q Why were you desiring a loan back in 2007?

12 A Consolidate some bills.

13 Q So you packaged up some debt and used your
14 house as collateral?

15 A Yes.

16 Q All right. Did you perform any
17 improvements on the house as a consequence of
18 receiving this money?

19 A No.

20 Q All right.

21 A The sole purpose was consolidating some
22 loans.

23 Q Very good. Thank you.

24 Now, was an appraisal done of your
25 property in conjunction with the -- with your

1 securing this loan?

2 A I don't recall.

3 Q Okay. Do you have homeowner's insurance
4 on your property?

5 A Yes.

6 Q Do you know the amount of the policy?

7 A Not offhand.

8 Q Have you made any requests of your
9 insurance carrier to reduce the amount of
10 coverage you presently have on the home?

11 A No.

12 Q Okay. For example, as a consequence of
13 the spill, I wondered if you had called them and
14 said --

15 A No.

16 Q All right. Mr. Chesney, you have been
17 handed a deposition Exhibit No. 13. I'll
18 represent to you that this is a State of
19 Tennessee Real Estate Appraisal.

20 A Okay.

21 (Marked Exhibit 13.)

22 BY MR. SHERK:

23 Q For the year 2009. Do you see that?

24 A Pardon me?

25 Q Right at the very top right-hand side, it

1 says, "Tax Year 2009, County of Roane."

2 Do you see that?

3 A Okay.

4 Q On the very right-hand side, about 20
5 percent of the way down on the right, there is a
6 box that says, "Appraised Values."

7 Do you see that?

8 A Uh-huh.

9 Q Okay. Under that it says, "Improvements,
10 \$145,400."

11 Did I read that correctly?

12 A Improvements?

13 Q Uh-huh. Do you see that?

14 A I see that.

15 MR. DAVIS: That's the only question
16 on the floor.

17 THE WITNESS: Yes, I see it.

18 BY MR. SHERK:

19 Q Below that it says, "Land, 28,300."

20 Do you see that?

21 A I see that.

22 Q All right. And then the next line is,
23 "Total Appraisal, \$173,700."

24 Do you see that?

25 A Yes.

1 Q Were you aware that this appraisal had
2 been issued in 2009?

3 MR. DAVIS: I'm going to object to
4 the question because the appraisal wasn't done
5 in 2009.

6 MR. ANSTOETTER: If you've got a form
7 objection, state it as form, Mr. Davis.

8 MR. DAVIS: It's vague and ambiguous
9 and assumes facts not in the record. How's
10 that?

11 BY MR. SHERK:

12 Q Were you aware of this appraisal,
13 Mr. Chesney?

14 A I don't recall.

15 Q Is this -- I'm sorry to interrupt you.

16 A My signature's not on here, sir, so I
17 don't -- this might be an internal document with
18 the real estate appraisal group.

19 Q It's a County document.

20 A Okay.

21 Q Is this the first time you've seen that?

22 A I can't say.

23 Q You may --

24 A I don't know.

25 Q All right.

1 A 2006 or 2004, 2004.

2 Q I'm sorry?

3 A I'm just looking at the dates here. It's
4 from 2004; correct?

5 Q I couldn't understand you, sir.

6 A I'm sorry. On the right hand under
7 "Parcel Data" it says, "Land APR Date: 8/20,
8 2004."

9 Q Right, and then, "Review Date."

10 A Reviewed in '06.

11 Q Uh-huh. Yes.

12 Q I'll show you now what has been marked as
13 Exhibit 14. I'll represent to you that's
14 another real estate appraisal document, sir.

15 A Okay.

16 (Marked Exhibit 14.)

17 BY MR. SHERK:

18 Q And do you see on the right-hand side
19 again, it -- the line "Improvements" says
20 \$178,000.

21 Do you see that?

22 A Uh-huh. Yes.

23 Q Below that, the land is valued at \$62,100.

24 Do you see that?

25 A Okay.

1 Q And below that, total appraised value is
2 \$240,100?

3 A Yes.

4 Q Were you aware of this document?

5 A No.

6 Q Have you at any time appealed the taxes
7 that had been levied on your property?

8 A No.

9 Q Have you complained about the taxes that
10 you have to pay on your property since the
11 spill?

12 A Have I complained?

13 Q Have you complained?

14 A To the --

15 Q Tax appraiser.

16 A To the appraiser, no.

17 Q Have you appealed the amount of your taxes
18 at any point in time?

19 A No.

20 Q Do you think the appraised value of
21 \$240,100 is on target for your property?

22 MR. DAVIS: Object to the question.

23 It's vague, doesn't specify a period of time.

24 BY MR. SHERK:

25 Q You can answer.

1 A I think it's worth more, but if I'm going
2 to pay taxes, I want them to be as low as
3 they're possibly achievable, so --

4 Q Do you think it's upwards of \$260,000 in
5 worth?

6 MR. DAVIS: Again, objection.
7 Doesn't specify the time.

8 BY MR. SHERK:

9 Q You can answer.

10 A You know it's my home, so --

11 Q I understand.

12 A I think it's -- it's worth quite a bit to
13 me and my wife.

14 Q What would that figure be?

15 A Or it was, if not for the --

16 MR. DAVIS: I was going to object
17 first. Now you may answer.

18 THE WITNESS: If not for the ash
19 spill and the improvements we had planned, I
20 would say in the neighborhood of 3 plus.

21 BY MR. SHERK:

22 Q 300,000 or more?

23 A Or more, yeah. I'd have to scratch my
24 head and finish the basement and --

25 Q And then you would sell it?

1 A And then I would sell it? I had not
2 intended to sell it, sir.

3 Q You had considered, at one point in time,
4 finishing your basement?

5 A Yes, sir.

6 Q But you didn't do that?

7 A Right.

8 Q Even without a finished basement, though,
9 you calculate your house may be upwards of
10 300,000 or more in value?

11 MR. DAVIS: Objection. Same
12 objection. No specification as to time.

13 BY MR. SHERK:

14 Q You can answer.

15 A Yes, sir.

16 Q Since the spill, have you put your house
17 up for sale?

18 A No.

19 Q Have you considered putting your house up
20 for sale on the public market?

21 A Yes.

22 Q Okay. Do you intend to try to sell your
23 house?

24 A I'm undecided.

25 Q And I understand that since the spill you

1 have made overtures to TVA to buy your house;
2 correct?

3 A Yes. I filed the claim. That was my
4 request on the claim.

5 Q So the possibility of selling your house
6 is out there, but you haven't made a firm
7 determination?

8 A I couldn't get anything for it. There's a
9 stigma with it.

10 Q All right. Let's talk a little bit about
11 your claim for medical monitoring.

12 Is it your belief that you were
13 exposed to hazardous substances?

14 A As in fly ash?

15 Q Whatever you say.

16 A Absolutely, sure as I'm sitting here.

17 Q Is that the material that you believe you
18 have been exposed to that's hazardous?

19 A Yes.

20 Q Okay.

21 A I think lead, arsenic, selenium, all earth
22 products refined from coal or either heavy
23 metals or, you know, a carcinogen, that in
24 small, minute parts can float in the air unseen.

25 Q Over what period of time do you believe

1 that you have been exposed?

2 A Since 12/23/08 to the present.

3 Q In your opinion, has your rate of exposure
4 been the same during that period of time?

5 MR. DAVIS: Objection to the form.
6 It's vague.

7 BY MR. SHERK:

8 Q You can answer.

9 A About the same.

10 Q Do you think that you may have been
11 exposed more right at the time of the collapse
12 of the dike than you are being now?

13 A Yes. I'll agree with that, yes, because
14 I -- I've seen things that made me very uneasy.

15 Q Do you think you've been exposed more on
16 days when the wind was blowing your direction as
17 opposed to days when it wasn't?

18 A Absolutely, yes.

19 Q Do you believe you are exposed less now
20 because of the remediation activities that have
21 taken place at the site of the dike failure over
22 the last year and a half?

23 A They've removed quite a bit and covered up
24 quite a bit, and so it's less exposure. So one
25 would think it would be somewhat less now, but

1 the danger is still there. They can't get it
2 all, so it will always be there.

3 Q I believe you indicated that no one has
4 done any air monitoring at your house?

5 A No.

6 Q Since the spill, have you gone to your
7 physician to ask that you have screening tests
8 done to determine whether you have been impacted
9 by the fly ash?

10 A I've gone to my physician. I go yearly,
11 but I haven't requested any screening.

12 Q Okay. Are you still covered by the same
13 insurance that you had when you were working at
14 the facilities that we spoke of earlier, K-25,
15 Y-12?

16 A Yes, I have the same insurance.

17 Q You have the same insurance still?

18 A The same company.

19 Q Same company, okay.

20 A Different policy for retirees.

21 Q Do you still go for yearly physicals
22 there?

23 A No.

24 Q What kinds of physicals -- how often do
25 you go now?

1 A I go to my primary care once a year.

2 Q Does he do the same kinds of tests on you
3 that were done when you worked for the
4 government?

5 A Well, unless there's a problem in your
6 breathing or in that type of thing, no, it's a
7 normal physical.

8 Q So as I understand it, since the spill you
9 haven't gone to the doctor specifically to test
10 your blood or urine or any other aspect of your
11 body for the presence of toxins arising from the
12 ash?

13 MR. DAVIS: Objection to the form.
14 Compound question.

15 BY MR. SHERK:

16 Q You can answer.

17 A No.

18 Q It sounds as if your belief is that you
19 have been exposed to the fly ash by breathing
20 it?

21 A Yes.

22 Q Is that correct?

23 Are there any other routes of exposure
24 that you think have occurred with respect to the
25 ash?

1 A It seems more dusty in our house since
2 then.

3 Q All right. So you would breathe the dust
4 in your house; is that what you were saying?

5 A Yes, I breathe in my house.

6 Q Any other way that the -- you've been in
7 contact with the fly ash?

8 A Yeah. Yes. With -- my dogs. You know,
9 I've cleaned them of the fly ash, tried to stay
10 away from it as much as possible.

11 Q Cleaning your dogs, then, that might have
12 gotten on your skin?

13 A Yes.

14 Q Through washing them?

15 A Uh-huh.

16 Q Any other way?

17 A Or airborne from drying them. It's -- I
18 understand it's small -- it's like oxide that's
19 in the air. You don't see it.

20 Q So maybe when you were brushing them off?

21 A Could have.

22 Q Came off their coats?

23 A Yes.

24 Q When you clean your dogs, do you wet them
25 down?

1 A Yes.

2 Q Do you ever clean them when they're dry,
3 or is it always --

4 A Yes, I do that too. Brush them.

5 Q Brush them, and you wash them. Any other
6 ways that you can think of that you've been
7 exposed to fly ash?

8 A I would say through normal mowing.

9 Q Mowing your yard?

10 A Yes, sir. You mow, it's settled into the
11 grass, weeds. It goes airborne again.

12 Q Can you see it?

13 A No.

14 Q Has anybody measured your soil to
15 determine whether or not there's fly ash there?

16 A No.

17 Q You've indicated that you don't eat -- you
18 don't grow tomatoes anymore since the spill;
19 correct?

20 A Correct.

21 Q And you don't shoot deer on your property
22 and eat that deer anymore since the spill?

23 A Correct.

24 Q So are you no longer eating foods that you
25 believe could have been exposed to fly ash?

1 A Correct.

2 Q Do you think you've been exposed to fly
3 ash today?

4 A Yes.

5 Q Yesterday?

6 A Yes.

7 Q Last week?

8 A Yes.

9 Q What are the activities that you believe
10 place fly ash in the air?

11 A The disaster that occurred by the
12 breaching of the dike exposed it -- it's no
13 longer wet, exposed it to the air. And on the
14 night of the 24th, the 24th -- I'm sorry, 2008,
15 I witnessed -- it was like a out gassing of the
16 moonscape out there with -- it was like a plume
17 of vapor, not steam because it didn't
18 immediately dissipate. But after it came out of
19 the cove, it did, so --

20 Q And that was right after the spill itself?

21 A Yes, I believe that was two nights. It
22 didn't immediately, and I don't think it was the
23 first night. If I recall correctly, it was the
24 next night, it warmed up some.

25 Q That was in December of 2008 after the

1 spill?

2 A Yes, sir.

3 Q All right. Okay.

4 Talking about yesterday's exposure,
5 has the fly ash been suspended in the air since
6 February 22, 2008?

7 MR. DAVIS: Objection.

8 MR. SHERK: Sorry. Let me do it
9 again.

10 Q When you think about the exposure that you
11 believe you had sustained yesterday, is that
12 from fly ash that has been suspended in the air
13 since December 22, 2008?

14 A I'm -- I don't know. I'm no expert,
15 so --

16 You know, I seen what I seen,
17 and that was then, and you know, I don't
18 expect -- it's not gone away. So my exposure,
19 whether it's the same I can't say, as it was
20 those first days.

21 Q We looked at Exhibit 1. You've marked
22 where your house is; correct?

23 A Yes.

24 Q Right east of Emory River Road; correct?

25 A It's east of Emory River Road. How

1 accurate I marked it, I can't verify.

2 Q If you were in a different location, say,
3 you know, up on Swan Pond Circle, would your
4 exposure be different there than it is at your
5 house?

6 MR. DAVIS: Objection to form.
7 Vague.

8 THE WITNESS: No. I mean everybody's
9 affected, in my mind, equally. The wind can
10 blow in any direction.

11 BY MR. SHERK:

12 Q Are there trucks or backhoes or other
13 machinery that may kick up dust?

14 A I've seen that, yes.

15 Q Do you think that causes --

16 A Some.

17 Q -- some exposure, potentially, to fly ash?

18 A There's a lot of equipment there, yes,
19 sir.

20 Q Would people that are closer to that kind
21 of activity be more susceptible to the
22 exposure -- to be exposed to fly ash than you
23 would over here off Emory River Road?

24 MR. DAVIS: Objection to form.
25 "Susceptible" is a vague term.

1 THE WITNESS: Not necessarily.

2 BY MR. SHERK:

3 Q Have you ever tried to put a measurement
4 on the amount of fly ash that you've been
5 exposed to?

6 A I haven't -- I have no way of doing that,
7 sir.

8 Q So you can't say whether or not you got
9 more fly ash exposure in 2009 versus 2010?

10 A I can't say that, no, sir.

11 Q Or you get more exposure when you're out
12 in the woods hunting versus when you're inside
13 the house?

14 A I'm outside, so I would venture to guess
15 that I'm more exposed.

16 Q Probably less exposure for people that
17 remain inside more often than not?

18 A We were told to stay in our house
19 immediately following the disaster.

20 Q Do you think that instruction still holds
21 true today?

22 A They didn't say it was safe to come out,
23 they being TVA and the health department, I
24 believe is who said that.

25 Q Have you given any information to any

1 scientist about your experiences in terms of
2 exposure since the spill in December of 2008?

3 A No.

4 Q Have you given any information to any
5 expert about your experiences since the spill of
6 2008?

7 A Just my counsel.

8 Q Have you ever gone over to the TVA site to
9 monitor or inspect the cleaning operations?

10 A No.

11 Q Have you kept informed about what cleanup
12 operations are being undertaken by looking at
13 websites or watching the news, anything like
14 that?

15 A Yes.

16 Q Okay. What kinds of things have you
17 learned that are being done -- that have been
18 done over time?

19 A I spoke to the dredging and
20 riprap rock and the -- the green matting,
21 grass-growing stuff that they blow out, the
22 helicopters -- that first dropping the
23 hay -- and the ongoing dredging. You know, I
24 was interested, so I watched it on a daily
25 basis.

1 Q And I think you said earlier that it looks
2 like they're almost finished dredging?

3 A They moved -- they removed the big
4 dredgers. I believe there's one or two.
5 There's some more left.

6 Q Has any medical doctor told you that you
7 need a screening test due to -- that
8 overexposure of materials arising from the dike
9 failure?

10 A No.

11 Q And I believe you said that you have not
12 been to a doctor and requested a screening test
13 since the dike failure as a consequence of your
14 being exposed to fly ash?

15 A That's correct.

16 Q Getting back to your observation of the
17 dredging operation in the river. From what
18 vantage point were you watching the dredging
19 boats?

20 A Overlook.

21 Q From your porch?

22 A Yeah.

23 Q Or is there another better spot that you
24 watch from?

25 A Well, I have a better vantage on top of

1 the house, but I didn't necessarily climb up
2 there to look. I have used my binoculars,
3 but --

4 Q And that's just sitting on your front
5 porch or --

6 A The back deck, yes.

7 Q The back deck.

8 Has any physician told you that you
9 are at a significantly increased risk for
10 disease because of your exposure to fly ash?

11 MR. DAVIS: Objection. Form of the
12 question.

13 BY MR. SHERK:

14 Q You can answer.

15 A No.

16 Q What screening tests are you seeking?

17 A You mean through the class -- resident
18 class?

19 Q Yes.

20 A I don't know. I imagine with my
21 background, knowing what I know, that -- how
22 they find certain things in your lungs, you
23 know, it's -- heavy metal settles into your
24 lungs. It don't leave, so I imagine it will be
25 something of that nature.

1 Q A kind of lung screening test?

2 A I'm just speculating.

3 Q Are there specific diseases that you would

4 like to be monitored for?

5 A That's hard to say. I don't -- I

6 don't -- I don't recall what this -- you know, I

7 know cadmium is a carcinogen, the other stuff

8 are earth elements, heavy metals, very bad

9 stuff, so I guess all of the above. It's

10 listed, and it's refined from coal.

11 Q Does the medical monitoring program that

12 the class seeks include certain diseases that

13 are to be monitored for in the medical

14 monitoring program?

15 A I don't know that.

16 Q We've talked about the screening program

17 that you had on a yearly basis, or more than

18 one-year basis, when you worked at K-25 and

19 Y-12; right?

20 A Right.

21 Q Since retiring, you indicated that you see

22 the doctor on a yearly basis?

23 A Yeah, primary care.

24 Q What's his name?

25 A Rodney McMillin.

1 Q Do you have regular screening tests that
2 he gives you?
3 A Pertaining to the ash spill?
4 Q No, just in general.
5 A Yes.
6 Q What are those?
7 A Blood work, you know PSA, the normal.
8 Q Colonoscopy?
9 A Yes, on a five-year basis.
10 Q Urine sample?
11 A Yes.
12 Q Checks your weight?
13 A Yes.
14 Q Checks your blood pressure?
15 A Absolutely.
16 Q Checks cholesterol?
17 A Yes.
18 Q Do you ever do a stress test?
19 A No.
20 Q By that I mean when you get on the
21 treadmill --
22 A I haven't done that with an EKG hooked up
23 to it, no.
24 Q Have you ever had an EKG?
25 A Yes.

1 Q Was that recently that you had an EKG?

2 A I can't -- it's not recent. I don't
3 recall the last one.

4 Q Was that part of the medical care you
5 received when you were working for the
6 government?

7 A Yes. Yes.

8 Q Have you had chest x-rays?

9 A Yes, that's part of it as well.

10 Q Part of the care you received --

11 A Yes.

12 Q -- with the government.

13 Since retiring --

14 MR. DAVIS: Wait a minute. Wait a
15 minute. Let's make sure the record is clear on
16 that.

17 THE WITNESS: It was listed before.

18 MR. DAVIS: Did you understand the
19 question? Let him ask it again for you.

20 MR. SHERK: I want to make sure we've
21 got a clean record here.

22 Q Did you -- have you received a chest
23 x-ray?

24 A Since retiring, is that --

25 Q At any time.

1 A Yes, I have.

2 Q Was that when you worked for the
3 government?

4 A Well, I worked -- let me clarify. I
5 worked for a government contractor. Yes, it was
6 with that contractor.

7 Q Since retiring, have you had a chest
8 x-ray?

9 A Yes.

10 Q Okay. And did your primary care physician
11 provide you with that?

12 A It was through his referral.

13 Q Okay. Why were you referred for a chest
14 x-ray?

15 A I was having endoscopic nasal surgery.

16 Q Okay. All right.

17 Have you ever had an LDCT scan of the
18 chest?

19 A Not to my knowledge.

20 Q Okay. Have you ever had a full-body scan?

21 A That's a CAT scan or MRI?

22 Q CAT scan.

23 A Yes.

24 Q Has that been since you retired?

25 A No.

1 Q That was care that you were given when you
2 worked for the government contractor?

3 A Through my primary care physician.

4 Q Why were you given that CAT scan?

5 A Back, spine and headaches.

6 Q Let's talk a little bit about your health
7 as you were growing up. Did you consider
8 yourself to be a healthy kid?

9 A Yes.

10 Q Did you have any major illnesses as a
11 child?

12 A Yes.

13 Q What were those?

14 A Gosh. Let's see. I had scarlet fever,
15 pneumonia, chicken pox, mumps.

16 Q Did you have asthma or any breathing
17 problems?

18 A No.

19 Q Cancer?

20 A No.

21 Q Polio?

22 A No.

23 Q Rubella?

24 A No.

25 Q Any operations as a child?

1 A No.

2 Q Broken bones?

3 A A few.

4 Q Nothing too serious?

5 A No, no. I didn't break a leg or --

6 Q Any hospitalizations as a child?

7 A As a child?

8 Q Uh-huh.

9 A As a child, no.

10 Q How would you characterize the state of

11 your health as an adult?

12 A At this point in my life?

13 Q Sure.

14 A Good, but not great.

15 Q Why not great?

16 A Because of my age. It comes with the

17 territory.

18 Q Have you had any hospitalizations as an

19 adult?

20 A Yes, sir.

21 Q For what?

22 A Back -- back procedure, the

23 endoscopic -- well, outpatient surgery on that.

24 Q Outpatient nasal surgery?

25 A It was done on an outpatient --

1 outpatient, but you know. It was done as an
2 outpatient, I went home that day.

3 Foot surgery. I had foot surgery on
4 an out -- it was done on outpatient.

5 Double carpal tunnel.

6 That's all I recall.

7 Q Approximately when did you have your back
8 surgery?

9 A '85, 1985.

10 Q Did you have an accident that caused a
11 back problem?

12 A Yes.

13 Q Was that a car wreck or work or --

14 A Work.

15 Q What happened?

16 A I got my back jammed.

17 Q When was your nasal surgery?

18 A Last summer.

19 Q 2009?

20 A Yes, sir.

21 Q Your foot surgery?

22 A I'm going to guess, okay?

23 Q Sure.

24 A I'm very accurate, pre-9/11. Close. I
25 would say 1998, '99.

1 Q All right. And your double carpal tunnel?
2 A That was before I retired.
3 Q Okay. So that was a work-related
4 operation?
5 A Oh, I -- probably. You know, just -- I
6 can't say that. I use my hands for everything.
7 Q Okay. Any other surgeries or
8 hospitalizations that you can remember that we
9 haven't just itemized?
10 A I don't recall any.
11 Q As an adult, have you been treated for
12 asthma or bronchitis?
13 A No.
14 Q Any other breathing problem?
15 A Just with the nasal surgery.
16 Q Okay. Was that surgery just to unblock
17 nasal passages?
18 A Yeah, and that -- it was running down into
19 my lungs, and that's the reason for the chest
20 x-ray.
21 Q Did you have sleep apnea?
22 A Do I have it?
23 Q Did you have it?
24 A From that?
25 Q Yeah.

1 A Well, it kept me awake. I don't know if
2 it was sleep apnea or not.

3 Q All right. Have you ever been diagnosed
4 with any kind of cancer?

5 A No.

6 Q Any heart conditions?

7 A No.

8 Q Chest pains?

9 A Three days ago when I got stung by yellow
10 jackets.

11 Q That will do it.

12 A About 10 bites on my arm here, and it did
13 hurt my heart. Anyways, that's scary.

14 Q That can happen. Did you have to go to
15 the hospital or the ER?

16 A No, I didn't go. I had Atropine. But
17 I didn't have none of the symptoms, so I
18 didn't -- I'd been bit. I took a Benadryl and
19 kept on mowing.

20 Q Have you ever had -- have you had viral
21 infections as an adult?

22 A Give me an example, please.

23 Q The flu, serious flus?

24 A Flu, yes. I've had the flu.

25 Q Nothing out of the ordinary though?

1 A No.

2 Q How about stomach problems or

3 gastrointestinal problems?

4 A Yes, yes.

5 Q What sorts of problems along those lines

6 did you have?

7 A Diverticulitis.

8 Q Once you have that, do you have it forever

9 or does it go away?

10 A Yes. Oh, unless it's operated on -- that

11 section is taken out -- yes.

12 Q And you have not had an operation for

13 that?

14 A No, it doesn't warrant it. It's just

15 monitored.

16 Q You just manage it?

17 A Yes.

18 Q Is that by the selection of foods that you

19 eat or medication that you take?

20 A The cause of it?

21 Q Yeah. How do you keep it under control?

22 A More fiber. It's that simple.

23 Q Have you been diagnosed as having ulcers?

24 A No.

25 Q Pneumonia?

1 A I had pneumonia when I was young.
2 Q But not as an adult?
3 A No.
4 Q Hepatitis?
5 A No.
6 Q Rheumatic fever?
7 A No.
8 Q Scarlet fever as an adult?
9 A No.
10 Q Malaria?
11 A Took the pill, no.
12 Q Diabetes?
13 A No.
14 Q Antithyroid?
15 A Not to my knowledge.
16 Q Pardon me?
17 A Not to my knowledge.
18 Q Thyroid problems?
19 A No.
20 Q Any other serious illness that you have
21 been diagnosed with as an adult that I haven't
22 mentioned?
23 A You didn't mention, and I suppose I should
24 tell you, high blood pressure.
25 Q Do you take medication for that?

1 A Yeah, I take medication for that.

2 Q What do you take?

3 A I take Diovan.

4 Q Do you have high cholesterol, borderline?

5 A Borderline. Sometimes yes and sometimes

6 no.

7 Q Do you take statin or some kind of

8 medicine for the high cholesterol?

9 A Well. I've tried it out, so when I go

10 back in Sept -- to my primary care in September,

11 he'll say, Have you been taking the pravastatin?

12 And I'll say, My prescription ran out, because I

13 didn't want to take it.

14 Q He'll just see what the test reveals and

15 then just kind of revisit the situation?

16 A Yeah.

17 Q Other than medicine you take for blood

18 pressure and cholesterol, do you take any other

19 medicines regularly?

20 A I take serotonin -- I take a serotonin

21 named Zoloft.

22 Q What is that for?

23 A For my blood pressure. It's an

24 antidepressant, but it's for my blood pressure.

25 Q What is the Diovan for?

1 A Diovan?

2 Q Diovan.

3 A It's blood pressure.

4 Q So you take two pills for blood pressure?

5 A Actually three.

6 Q Three. What's the third?

7 A Diovan, Neferine (phonetic) -- I'm

8 probably not pronouncing that right, but I don't

9 know the spelling -- and the Zolof, and baby

10 aspirin.

11 Q Have you ever been concerned about your

12 weight?

13 A Me?

14 Q Yes.

15 A I grew up real skinny, and they were

16 worried about that when I was young, and now

17 being old, I worry about being fat, so, yes.

18 Q Has any doctor ever told you needed to

19 lose weight?

20 A Yes.

21 Q Has any doctor ever told you to modify

22 your diet?

23 A Yes.

24 Q And have you done those things?

25 A Yes.

1 Q And do you feel comfortable with where you
2 are now?

3 A With my condition?

4 Q Uh-huh.

5 A Yes.

6 Q Do you drink alcohol?

7 A Yes.

8 Q Has any doctor ever advised you to quit
9 drinking alcohol?

10 A No.

11 Q Has your spouse ever encouraged you to
12 quit or cut down on your drinking?

13 A Well, she's said, Maybe you've had enough,
14 before. She's never told me to quit.

15 MR. DAVIS: We're going to put you
16 under oath and ask you the same question.

17 MR. SHERK: No, sir. Kidding.

18 THE WITNESS: Has your wife ever said
19 you've had enough?

20 BY MR. SHERK:

21 Q Are you a smoker?

22 A I like to enjoy a good cigar.

23 Q Have you ever smoked cigarettes?

24 A I've quit cigarettes long time.

25 Q When did you smoke?

1 A When?

2 Q Uh-huh, yes.

3 A When I went in the Army. Everybody
4 smoked.

5 Q That was in the late '60s?

6 A Yes.

7 Q Did you quit when you got out of the Army?

8 A Well, yeah. I quit when I got out, not
9 the day I got out, but sometime thereafter.

10 Q How many years were you a smoker?

11 A 10, 15, I don't -- I don't remember. I
12 quit and went on a health kick, and then started
13 enjoying cigars, a Macanudo if you want to get
14 me one.

15 Q So you probably quit smoking in the 1980s?

16 A Probably, yeah -- I mean, yeah, close.

17 Q How many packs a day smoker were you?

18 A I didn't smoke. I didn't have a set
19 limit, and I realized I really don't like
20 cigarettes. I don't like the smell -- I detest
21 the smell, so --

22 Q How?

23 A I don't think I had the cigarette habit,
24 so I said, Well, why am I doing this?

25 Q So you didn't even smoke a pack a day

1 then?

2 A No. Well, depends on the intake of the
3 beer, you know, at the M Club.

4 Q All right. We are at the end of our tape,
5 so why don't we take a quick break.

6 MR. DAVIS: Okay.

7 THE VIDEOGRAPHER: Here marks the end
8 of tape No. 3. Going off the record. The time
9 is 2:04.

10 (Recess.)

11 THE VIDEOGRAPHER: Back on the
12 record. This marks the beginning of tape No. 4.
13 Time is 2:14.

14 BY MR. SHERK:

15 Q We've just taken a quick break so that we
16 could change the tape. Mr. Chesney, let's
17 continue on.

18 How often would you have a cigar
19 these days?

20 A I try to have one or two a week.

21 Q Do you belong to a cigar club?

22 A No.

23 Q Are there any restaurants or cigar bars
24 you like to go to?

25 A Yes.

1 Q Oh, yeah? Which ones?

2 A Knoxville.

3 Q Is that a place downtown?

4 A Yes, one in West Knoxville and then down

5 in the Old City.

6 Q Since the spill, have you visited the TVA

7 plant or been on TVA property?

8 A Yes. I haven't visited the plant. I've

9 been on TVA property.

10 Q For what reason?

11 A Looking around, nosy.

12 Q Were you inspecting the cleanup

13 operations, something like that?

14 A Well, you know, it wasn't an inspection. I

15 was just curious, some people swimming in a

16 certain area and thought I'd look to see why you

17 would want to swim there, see if I could see

18 anything in the water.

19 Q Oh, okay. So you saw people in the -- was

20 it in the river, the Emory?

21 A Yeah. Well, it's the lake, actually, but

22 a cove, a little piece of the lake.

23 Q Do you see people swimming in the lake in

24 the summertime?

25 A Uh-huh.

1 Q Water skiers?

2 A Since the spill?

3 Q Yeah.

4 A I haven't seen any -- I think it's a

5 no-wake area.

6 Q Have you seen people playing volleyball

7 and hanging out in that little sandy area that

8 you pointed out on the map earlier today?

9 A I can't see that from my house, but before

10 the spill hit, heavy rains messed it up. It

11 wasn't never the same, I don't think.

12 Q So you haven't seen anybody out there

13 playing volleyball since the spill?

14 A No. Or -- you know, and that was several

15 years before.

16 Q Right.

17 A That was good, hard sand, and then the

18 heavy rain brought in silt and you was just knee

19 deep in it then.

20 Q We're talking about the little area by

21 mile marker 4?

22 A Mile marker 4 going up the Emory?

23 Q Yes.

24 A Yes, yes, yes, yes.

25 Q Besides your communication with TVA about

1 the repurchase of your home, have you had other
2 communications with TVA about the spill?

3 MR. DAVIS: Object to the form.

4 BY MR. SHERK:

5 Q You can answer.

6 A Not that I recall. Well, the letter we
7 got saying, you know, We're not going to buy you
8 out, that was my last communication with TVA.

9 Q All right. Since you got that letter,
10 have you attended any community meetings about
11 the failure of the dike?

12 A No.

13 Q Since you got that letter, have you had
14 any communications with EPA or TDEC or the
15 Tennessee Department of Health regarding the
16 spill?

17 A No.

18 Q Do you know anyone who is on the Citizens
19 Advisory Group regarding the spill?

20 A Not to my knowledge.

21 Q Have you ever heard of the Citizens
22 Advisory Group before?

23 A No. I'm not even sure what that is. Is
24 that local?

25 Q Yes.

1 A I don't know. I don't think so. I don't
2 know.

3 Q Since receiving your letter from TVA about
4 the repurchase of your house, have you made any
5 complaints to them?

6 MR. DAVIS: Objection to the form.
7 You keep saying repurchased. That's why I'm
8 objecting.

9 MR. SHERK: Okay. Let me rephrase
10 that then.

11 Q Since receiving the letter about the
12 purchase of your home from TVA where they
13 declined to do so, have you made any complaints
14 to TVA?

15 A No.

16 Q Since sending that letter, have you made
17 any complaints to the EPA?

18 A No. Since receiving that letter?

19 Q Correct.

20 A No.

21 Q Since receiving that letter, have you made
22 any complaints to TDEC?

23 A No.

24 Q Since receiving that letter, have you made
25 any complaints to the Tennessee Department of

1 Health?

2 A No.

3 Q Have you incurred any out-of-pocket
4 expenses as a consequence of the spill?

5 A Diminished property value.

6 Q Okay. Anything else that you can think
7 of?

8 MR. DAVIS: Objection.

9 You may answer if you understand what
10 he means.

11 THE WITNESS: I'm not sure I do.

12 BY MR. SHERK:

13 Q Money for air filters, for example.

14 A Oh, thank you. Yes.

15 Q Okay. Can you tell me about that item of
16 expense?

17 A Well, how much expense?

18 Q What were the circumstances of that
19 expense?

20 A We were told to change them weekly and TVA
21 was going to furnish them. They did not, I'm --
22 I think, if I recall correctly, I got two
23 filters. They -- I mean they, health
24 department, TVA, TDEC -- said you need to stay
25 indoors, change them once a week. We did that

1 for a while. They're quite -- allergenic
2 filters are quite expensive. And I went on an
3 as-needed basis afterwards because TVA wasn't
4 doing what their representative said they would,
5 buy our filters and they did not.

6 Q Any other out-of-pocket expense like that
7 that you can remember?

8 A None comes to mind.

9 Q Okay. Have you heard of the public health
10 assessment that was conducted in this area after
11 the spill?

12 A By ORAU?

13 Q No, this is a separate one by the
14 Tennessee Department of Health.

15 A I'm not aware of that one.

16 Q Mr. Chesney, you've been handed Deposition
17 Exhibit No. 15. I'll represent to you that this
18 is a document regarding the public health
19 assessment that I just alluded to in my question
20 to you.

21 Were you aware that the Tennessee
22 Department of Health conducted a public health
23 assessment after the spill?

24 MR. DAVIS: Asked and answered.

25 BY MR. SHERK:

1 Q You can answer.

2 A They came to our house and talked to us.

3 (Marked Exhibit 15.)

4 BY MR. SHERK:

5 Q Did they?

6 A I don't remember the assessment part, not
7 to say it didn't happen. I just don't
8 recall it. I picked up a lot of documents at
9 the -- when I was down at the outreach at Roane
10 State, so I mean I've got a -- I may have picked
11 this up there, I don't recall.

12 Q You went to the outreach center at Roane
13 State?

14 A It wasn't the center. It was just a -- a
15 TVA put on a show -- a show.

16 Q A presentation?

17 A Presentation.

18 Q When was that?

19 A Less than a year after, I think, it was.
20 It was that spring, I believe.

21 Q All right.

22 MR. DAVIS: I think he answered your
23 question.

24 MR. SHERK: Okay. Are you reading
25 the document or --

1 THE WITNESS: Reading?

2 MR. DAVIS: There a no question about
3 the document yet, so --

4 THE WITNESS: I'm just reading.

5 MR. SHERK: Yes. I was going to give
6 him a little bit of time if he wanted to review
7 it.

8 THE WITNESS: If you want to go
9 ahead --

10 MR. SHERK: Okay.

11 THE WITNESS: That's fine. I don't
12 have any questions.

13 BY MR. SHERK:

14 Q Look at the first page of the document, if
15 you would. Do you see the title, "What is a
16 Public Health Assessment?"

17 A Uh-huh. Yes.

18 Q And then it reads,

19 "A public health
20 assessment is a formal
21 government report. It is a
22 review of available information
23 about hazardous substances at a
24 site. It evaluates whether
25 exposure to chemicals might harm

1 people."

2 Did I read that correctly?

3 MR. DAVIS: I'm going to object to
4 the question. The document speaks for itself,
5 and the document has not been authenticated in
6 any way, shape or form.

7 BY MR. SHERK:

8 Q You can answer it.

9 Did I read that correctly?

10 A I think so.

11 Q Let's go to page 3 of this document.

12 A Page 3?

13 Q Uh-huh.

14 A (Witness complies.)

15 Q Do you see the section that says, "What
16 are the conclusions in the Public Health
17 Assessment?"

18 A I see that.

19 Q Okay. Can you skip down to conclusion

20 No. 3? The first sentence reads,

21 "No harm to the
22 community's health is expected
23 from touching the coal ash."

24 Do you see that?

25 A Yes.

1 MR. DAVIS: Same objection.

2 BY MR. SHERK:

3 Q Had you heard that conclusion before?

4 A Yes.

5 Q Okay. Let's look at conclusion 4. It
6 says,

7 "No harm to people's
8 health is expected from
9 accidentally eating a small amount
10 of coal ash."

11 Did I read that correctly?

12 MR. DAVIS: Same objection. We've
13 established he can read.

14 THE WITNESS: Eating, I don't see
15 eating. Let's see -- touching.

16 Q It's No.4.

17 A Oh, No. 4. Yeah, I see that.

18 Q Okay. Had you heard that conclusion
19 before?

20 A I can't say I have.

21 DEPOSITION OFFICER: I'm sorry?

22 THE WITNESS: I can't say I have.

23 BY MR. SHERK:

24 Q Let's look at No. 8. The first sentence
25 reads,

1 "No harm to people's
2 health should result from
3 recreational use of the Emory,
4 Clinch, and Tennessee Rivers
5 outside the area of the lower
6 Emory River down to the
7 confluence of the Emory and
8 Clinch Rivers, as specified."

9 Do you see that?

10 A I see that.

11 MR. DAVIS: Same objection.

12 BY MR. SHERK:

13 Q Were you aware of that conclusion?

14 A What's the date on this document, this
15 piece of paper?

16 Q I don't see an access date on this one.

17 A Yeah, I see -- I see it here. You know,
18 it was closed for a long time. No access
19 allowed, so it's kind of irrelevant.

20 Q All right. So you -- I take it you were
21 not aware that this public assessment had been
22 conducted?

23 A I don't recall seeing that. Maybe I did,
24 maybe I didn't.

25 Q Okay. Do you consider the Tennessee

1 Department of Health to be a reputable
2 organization?

3 MR. DAVIS: Object to the form.

4 BY MR. SHERK:

5 Q You can answer.

6 A They do the best they can, in my opinion.

7 Q Do you think the Tennessee Department of
8 Health has the best interest of the citizens of
9 Tennessee at heart?

10 MR. DAVIS: Object to form.
11 Speculation.

12 THE WITNESS: That's what we have
13 elections for.

14 BY MR. SHERK:

15 Q So you don't believe that they have the
16 best interest of the citizens of Tennessee at
17 heart?

18 A If they don't, then something should -- I
19 believe they do. I believe they -- like I said,
20 they do the best they can.

21 Q Are you familiar with the medical
22 screening study that was conducted by ORAU?

23 A I know of it.

24 Q Did you receive a letter in the mail
25 inviting you to participate in that screening

1 study?

2 A I believe so.

3 Q Okay. Did you consider becoming involved
4 in the screening study with ORAU?

5 A No, I didn't consider it.

6 Q Did your wife consider --

7 A No.

8 Q Why is it that you didn't participate in
9 the ORAU screening study?

10 A Well, number one, it wasn't independent
11 from my point of view.

12 Q You don't consider ORAU and Vanderbilt to
13 be independent institutions?

14 A It would be better for Queens College, out
15 of the area, I believe.

16 Q So do you believe that they would -- they
17 being ORAU and Vanderbilt -- issued misleading
18 results?

19 MR. DAVIS: Objection to form.

20 THE WITNESS: No, not misleading, but
21 maybe not all the facts. I don't know. I'm
22 speculating, so --

23 BY MR. SHERK:

24 Q You were skeptical of the program?

25 A Yes.

1 Q Did you hear or read of any results of the
2 ORAU study which came out earlier this week?

3 A I didn't see any of the results. I read
4 what was in the paper. They didn't have many
5 people participating. It didn't have but just a
6 few turn out.

7 Q Do you know what the results were?

8 A No.

9 Q What did the paper say?

10 MR. DAVIS: Objection to form.

11 THE WITNESS: I don't recall. I
12 just -- there were very few people there.

13 BY MR. SHERK:

14 Q Do you recall any of the headlines in the
15 paper that you read about the ORAU study?

16 MR. DAVIS: Objection.

17 BY MR. SHERK:

18 Q You can answer.

19 A Just that one article.

20 Q And what was the title?

21 A ORAU results are in, or studies in or
22 something to that effect.

23 Q Mr. Chesney, you've been handed Deposition
24 Exhibit No. 16. I'll represent to you that this
25 is a newspaper article that we pulled off

1 Knoxnews about the ORAU study.

2 Is this the newspaper report that
3 you saw?

4 A No, I -- no.

5 (Marked Exhibit 16.)

6 BY MR. SHERK:

7 Q Okay.

8 MR. DAVIS: Do you want him to review
9 it?

10 THE WITNESS: Do you want me to read
11 it? I've not -- I've --

12 MR. SHERK: I just got a couple of
13 questions.

14 THE WITNESS: I read it, what was in
15 the Roane County News.

16 BY MR. SHERK:

17 Q Is the title of this article, "Study shows
18 no long-term health problems from coal ash
19 spill"?

20 A That's what it says.

21 Q Okay. Thinking back on your property, it
22 is a heavily wooded parcel of land; correct?

23 A Where the house is located, yes.

24 Q Right. And you've got over four acres;
25 right?

1 A Yes.

2 Q Are most of the trees pine trees?

3 A No.

4 Q What kind of trees are those?

5 A Oak.

6 Q Oak trees, okay.

7 Have you saved any of the air filters

8 that you have changed in your house since the

9 spill?

10 A Yes.

11 Q And do you still have those?

12 A No.

13 Q What happened to those?

14 A I gave those to my attorneys.

15 Q Okay. How many air filters did you have?

16 A I don't -- I don't recall the number.

17 Q From what period of time did you collect

18 those air filters?

19 A Probably over a two-month period.

20 Q Which two months would those be?

21 A Immediately following.

22 Q So late December/early January 2008/2009?

23 A Well, more in January than --

24 Q January, February, something like that, of

25 2009?

1 A Right. Maybe March, April. I don't --
2 like I said, I turned those over.

3 Q To your counsel?

4 A To my counsel, yes.

5 Q Did you turn over anything else like that
6 to your counsel?

7 A Yes. Some wipes and -- from fans, ceiling
8 fans, light fixtures, shelves.

9 Q You collected dust from shelves and other
10 areas and gave that to your attorneys?

11 A Yes.

12 Q How about bags from vacuum cleaners?

13 A We have a bags, but I think I got a sample
14 out of that.

15 Q You provided him with a sample?

16 A Well, I may have, but I'm positive on the
17 wipes and the filters.

18 Q Do you keep a schedule of when you change
19 your filters for your --

20 A No.

21 Q -- HVAC?

22 A No.

23 Q These are the filters for your furnace and
24 air conditioner?

25 A For the heat pump.

1 Q Do you know what has happened to those
2 filters?

3 A No.

4 Q Were you represented by counsel in
5 January -- in February of 2009?

6 A No, I had those in -- tucked away in the
7 garage.

8 Q Are there any other items like that that
9 you have collected that we haven't already
10 talked about before?

11 A I don't -- no, I don't think so.

12 Q Did you take samples of soil, for example?

13 A No, I have not.

14 Q Samples of water?

15 A No.

16 Q Okay. Samples of fur from your dog?

17 A I should have, but no.

18 Q Do you have photographs of your house,
19 both interior and exterior, that you have not
20 turned over to your counsel?

21 A Yes.

22 Q Mr. Chesney, we'd ask that you provide
23 those photographs to your -- to your counsel for
24 the period of around 2007 to today if they're in
25 addition to what you've already given your

1 counsel.

2 MR. DAVIS: Do you want to be more
3 specific about the types of photographs because
4 he may have quite a few. I mean, I don't know.

5 MR. SHERK: Photographs --

6 THE WITNESS: We've got tons, so --

7 BY MR. SHERK:

8 Q You've got tons?

9 A Yeah.

10 Q I'm not so interested in grandkids, but
11 photos showing the --

12 A Dogs.

13 Q The exterior and interior of your house,
14 your dogs, the dog's area, that kind of thing.

15 A Okay.

16 MR. DAVIS: I bet he's got as many
17 photos of his dogs as he does of his children.

18 THE WITNESS: I have them together.

19 BY MR. SHERK:

20 Q Have you saved any of your air filters
21 that you have not provided to your counsel at
22 this point?

23 A No. I've started chucking those.

24 Q So they don't -- your counsel don't have
25 any filters that were collected within the

1 calendar year of 2010?

2 A No. Those were 2009.

3 Q Right. Those were early 2009 filters?

4 A (No audible response.)

5 Q Did you continue to collect filters
6 through the remainder of 2009 or no?

7 A No, I didn't. I didn't.

8 Q Just for the first couple months after the
9 spill?

10 A Yeah. Counsel advised they wouldn't be
11 used, so I needed space in my garage, so --

12 MR. DAVIS: Don't testify about what
13 your counsel said to you. Okay?

14 THE WITNESS: Yes, sir.

15 BY MR. SHERK:

16 Q Did you eat fish that was caught from the
17 Watts Bar Reservoir area prior to the spill?

18 A Yes.

19 Q You did. Okay. Have you continued to eat
20 fish out of the Watts Bar Reservoir since the
21 spill?

22 A No.

23 Q Are there any claims that you are making
24 in this case that we haven't covered during the
25 course of this deposition today?

1 A Claims?

2 MR. DAVIS: Object to the form.

3 BY MR. SHERK:

4 Q You can answer.

5 A My claim is in this.

6 Q We know you're seeking medical monitoring;
7 correct?

8 A Correct.

9 Q And we want -- we know you want to be
10 treated fairly with regard to the purchase of
11 your home?

12 A Diminished property.

13 Q Right. You're not seeking a claim for
14 personal injuries; correct?

15 A No.

16 Q Not seeking a claim for emotional
17 distress?

18 A No.

19 Q Is there anything else that you want out
20 of this lawsuit that we haven't talked about?

21 A Well, in the diminished property value,
22 yes. You know, I want the -- a fair
23 compensation for the -- I don't want to say the
24 problems we've went through has -- I understand
25 other folks were. How much, I don't know.

1 Q So you want a premium beyond what your
2 house would have been worth prior to the spill?

3 A I want whatever the percentage was they
4 did for the other folks, that's what I want for
5 myself and the people in the community that I'm
6 representing on this class action.

7 Q Do you have any idea what that percentage
8 is?

9 A No. Like I said, they were told not to
10 talk about it, so I never asked and I never was
11 told.

12 Q Have you provided any medical records to
13 your counsel?

14 A No. To my knowledge, no.

15 Q Are you aware of anyone who has conducted
16 any air sampling in the area?

17 A Private?

18 Q Yes.

19 A Personal -- the -- there's a TVA -- you
20 know, they have air monitorings set around.

21 Q You have a seen some TVA air monitoring?

22 A Yeah.

23 Q Have you seen any other air monitoring?

24 A I seen a guy driving around.

25 Q Is he with TVA?

1 A He's got a TVA truck.

2 Q Besides that, have you seen any air
3 monitoring?

4 A No.

5 Q Are you aware of any other air monitoring
6 that's going on?

7 A No, I am not.

8 Q Are you aware of any water monitoring that
9 is taking place in the area?

10 A It's just what TVA told me, that they
11 were --

12 Q Just TVA monitoring?

13 A -- monitoring. Fish is good to eat, you
14 can swim in the stuff, you can eat it.

15 Q Are you aware of any soil testing that's
16 taking place in the area?

17 A No.

18 Q Is there any aspect of your property that
19 needs to be cleaned up or remediated?

20 A I can't say. I don't know. I don't know
21 what's there. I don't know the extent of what's
22 there, so I really can't answer that.

23 Q That's all the questions I have.

24 MR. DAVIS: Okay.

25 MS. MORETZ: I don't think I'm going

1 to refer to any of those, Mr. Chesney. So it
2 doesn't matter about that.

3 THE WITNESS: Okay.

4 EXAMINATION

5 BY MS. MORETZ:

6 Q My name is Denise Moretz, sir, and I am
7 going to try not to repeat any of the questions
8 that have already been asked of you, but I do
9 want to follow up on some of the things that
10 have been asked of you.

11 You had indicated that you don't eat
12 fish from the lake now. And I think you said
13 you did eat fish prior to 2000 -- December 2008?

14 A Yes.

15 Q From your lake, okay.

16 Prior to December 2008, did you see
17 any -- anywhere on the lakes or the rivers
18 locally warnings with regard to either mercury
19 or PCBs and whether or not you should eat the
20 fish?

21 A Certain areas of the lake, yes.

22 Q You were talking about the filters that
23 you had changed more frequently right after the
24 spill and then on a more normal basis in 2010.

25 Did you visibly see any difference

1 in those filters, say, from January of 2009
2 until the last time you changed your filter?

3 A It seemed to be more in the beginning,
4 immediately preceding.

5 Q Can you describe what the filters looked
6 like in the beginning?

7 A Brown -- brown -- looked like brown dust
8 with dog hair.

9 Q Can you quantify the difference -- I am
10 assuming you see dust every time you change the
11 filters. That's something that --.

12 MR. DAVIS: Let her finish first.

13 THE WITNESS: I'm sorry.

14 BY MS. MORETZ: That's okay.

15 Q That's something that just naturally
16 occurs. Your filters get dirty after a certain
17 period of time; correct?

18 A Yes.

19 Q Okay. Can you quantify the difference
20 between the early 2009 and what you would
21 normally see just as a -- in the regular course
22 of your filters doing what they're supposed to
23 do?

24 A I don't think so. Of course, when you
25 have a health concern, you're going to look

1 more, be on the lookout.

2 Q How do you dispose of those now? Do you
3 just throw them in the trash, or --

4 A Yes.

5 Q Okay. The ones that you turned over to
6 your attorneys, how long had you stored those
7 before you turned them over?

8 A A few months. I had them in a sealed
9 garbage bag.

10 Q So you did store them in a sealed garbage
11 bag?

12 A Yes.

13 Q Okay. And you gave them to your attorneys
14 in that same sealed garbage bag?

15 A Yes.

16 Q Okay. Were the wipes included in the same
17 garbage bags, or were they stored separately?

18 A They were bagged separately in the same
19 container.

20 Q Okay. So they were put in a separate bag
21 and then put the bigger containers where the
22 filters were in; is that what you're saying?

23 A Yes.

24 Q Okay. Now, you were asked about the
25 public health assessment, and you mentioned that

1 someone came to your house and talked to you.

2 Do you recall that?

3 A Yes.

4 Q Do you know who it was that came to your
5 home and spoke with you?

6 A Other than health department, no.

7 Q Okay. So it was a representative -- a
8 representative of the Tennessee Department of
9 Health?

10 A Yes.

11 Q Okay. You don't know the person's name?

12 A No.

13 Q Okay. Were they asking you questions or
14 were they providing you information?

15 A Both.

16 Q Okay. Can you tell me what information
17 they provided you?

18 A They had some handouts.

19 Q Okay. Are those handouts that you gave
20 to your attorney so they could be produced to us
21 or -- or do you still have them?

22 A I believe we sent those in.

23 Q You sent them in to your attorneys?

24 A I believe so.

25 Q Okay. Do you -- what kind of material was

1 it that was handed out to you?

2 A General information -- the typical of the
3 one here.

4 Q Okay. Did it contain the same kind of
5 information as Exhibit No. 15, I think is what
6 that was marked?

7 A Somewhat.

8 Q Okay. When was it that this person came
9 to your house and talked to you?

10 A The next weekend, I believe.

11 Q After the December --

12 A The spill.

13 Q Spill? Okay. Did you ask them any
14 questions when they came to your home?

15 A I don't recall.

16 Q Okay. Was your wife there at the same
17 time?

18 A Yes.

19 Q Okay. Was anyone else at your home when
20 they came and visited -- the Tennessee
21 Department of Health came and visited?

22 A No.

23 Q Going back to your wife, you said
24 something earlier at the first of the deposition
25 and I just didn't understand.

1 Is she employed outside the home?

2 A Yes.

3 Q Okay. And what does she do?

4 A She's a medical technologist.

5 Q Where does she work?

6 A Y-12.

7 Q And how long has she worked at Y-12?

8 A One week.

9 Q One week?

10 A (No audible response.)

11 Q Where did she work before working at Y-12?

12 A Knoxville.

13 Q Okay. Where in Knoxville?

14 A CSL Plasma.

15 Q I'm sorry?

16 A CSL Plasma.

17 Q And what did she do there?

18 A The same, medical technologist.

19 Q Okay. Do you have an understanding of

20 what that includes, what her job actually is as

21 a medical technologist?

22 A Vague.

23 Q Tell me what that is. Tell me your

24 understanding anyway.

25 A She's done this a long time, so the

1 different jobs require different types of
2 testing.

3 Q Okay. What kinds of testing would that
4 include?

5 A Blood or plasma.

6 Q Okay. Is she someone -- if I go to the
7 doctor and I have to have blood drawn, would she
8 be one of those people that draws the blood or
9 would she be someone that actually tests the
10 blood once it's drawn?

11 A It could be either.

12 Q Okay. Who is her employer? You said she
13 worked at Y-12. Who does she actually work for?

14 A BWXT.

15 Q And has she worked for them before, or is
16 this one week just a new -- totally new job?

17 A Totally new, part time.

18 Q You also mentioned earlier in your
19 deposition that she gets more vacation than you.
20 Are you doing anything since retirement? I
21 mean, are you working part time somewhere, or
22 are you employed at all?

23 A I'm not employed at all.

24 Q Okay.

25 A I have worked part time.

1 Q Okay. When is the last time that you
2 worked part time?
3 A 2006.
4 Q Okay. And what did you do part time?
5 A Security escort.
6 Q And who was your employer?
7 A CDL.
8 Q CDL?
9 A Yeah. Don't ask me what that stands for.
10 I wasn't with them long enough to find out.
11 Q Have you had any other part-time
12 employment other than the CDL since you retired
13 and the Y-12 facility?
14 A No.
15 Q You also worked for Container Corporation
16 both before and after your military service;
17 correct?
18 A Yes.
19 Q What exactly did you do for Container
20 Corporation?
21 A Factory -- it's a factory, ran different
22 machines.
23 Q What was manufactured by Container
24 Corporation?
25 A Cardboard.

1 Q Did that work at Container Corporation
2 involve you working around any chemicals or
3 solvents?

4 A Probably, I think.

5 Q Do you have any idea what those would have
6 been that you worked around?

7 A I don't recall, ma'am.

8 Q Okay. Where was Container Corporation?
9 Is that in Knoxville or somewhere else?

10 A It's North Knoxville.

11 Q North Knoxville, okay.

12 You also -- and I'm jumping around
13 here, so I apologize. I'm trying to fill in
14 some blanks.

15 You mentioned that you had gone to a
16 presentation at Roane State where there were
17 some speakers.

18 Do you recall that?

19 A Yes, I recall that.

20 Q Do you recall who the speakers were?

21 A It wasn't really speakers. You went from
22 station to station, they had different, you
23 know, things to present to you.

24 Q Okay. And tell me, describe for me
25 what -- I mean, was it different vendors or

1 different tables with different lawyers, or what
2 were the different stations that you're talking
3 about?

4 A Okay. I assume they were engineers. I
5 don't think they were lawyers, but --

6 Q Okay, engineers? Okay. Do you know where
7 they were employed, who they worked for?

8 A I assume TVA.

9 Q Okay. So this was a TVA-sponsored
10 presentation?

11 A Yes.

12 Q Okay.

13 Q Have you seen anything on your property
14 that you can identify as fly ash, that you
15 personally can identify and say that's fly on my
16 property?

17 A As I've said earlier, it's minute. You
18 can't -- it's microscopic.

19 Q Okay.

20 A So I can't see it.

21 Q Okay. You mentioned that you -- you
22 believe you were exposed to ash as recently as
23 yesterday or today?

24 A Yes.

25 Q Okay. What is the source of that ash that

1 you think you were exposed to as recently as
2 yesterday or today?

3 A Windborne, airborne.

4 Q Okay. Are you saying that ash from some
5 location is being blown into the air and you're
6 breathing it? Is that -- is that the -- is that
7 what you're telling us?

8 A Yes.

9 Q Okay. Do you know where that ash is
10 located that's being stirred up and put into the
11 air that you're breathing?

12 A Yes.

13 Q Okay. Where is that coming from? Where
14 is the ash physically located that's being
15 stirred up by the wind?

16 A Where they store it, across at the steam
17 plant.

18 Q Okay. Is that ash stored dry, or is that
19 ash wet, or do you know?

20 A I know.

21 Q Okay. So what's -- how's it stored?

22 A It's dry.

23 Q It's dry, okay.

24 Is all of the ash that is being
25 stored at the TVA facility now dry or is it wet?

1 MR. DAVIS: Object to the form.

2 BY MS. MORETZ:

3 Q If you know.

4 A I think they were required to keep it dry.

5 Q Okay. Do you know if you're being exposed
6 currently to any fly ash from the stacks from
7 the TVA Kingston facility?

8 A They've got a new stack. The two big ones
9 aren't -- my understanding is they're not
10 operated on a reg -- if they need them, they're
11 there.

12 Q Okay. The new stack, do you think it's
13 producing fly ash to which you would be exposed?

14 A It's been said by TVA it's better, better
15 scrubbers, better all around.

16 Q So at this point you don't think you're
17 being exposed from the new stack to fly ash? Is
18 that a correct understanding?

19 A Correct.

20 Q Okay. Now, when the old stacks were in
21 operation, do you believe you were being exposed
22 to fly ash as a result of the old stacks?

23 A No.

24 Q Okay. And do I understand, then, from
25 your answer that you don't think the old stacks

1 produced fly ash into the atmosphere?

2 A No.

3 Q Okay. Since the ash spill in December
4 2008, have you done anything different to
5 protect yourself from being exposed to fly ash?

6 A Yes.

7 Q What have you done?

8 A I complied with staying indoors as
9 TVA -- as much as possible. I kept the windows
10 closed.

11 Q Is that something that you're still doing
12 today?

13 A No.

14 Q Okay. When did -- how long did you comply
15 with those -- those requests by TVA to stay
16 indoors and to keep your windows closed?

17 A It was winter, so we didn't have them
18 open.

19 Q Okay. That spring, I guess spring of
20 2009, did you open your windows and resume going
21 back outdoors?

22 A Went back outdoors. I don't recall
23 opening the windows out there like we would have
24 before.

25 Q Have you opened up your windows any at all

1 since December of 2008?

2 A A little bit.

3 Q Okay. Mr. Chesney, I represent a company
4 by the name of WorleyParsons Corporation. Is
5 that a company you're familiar with?

6 A I've heard of it.

7 Q Okay. How have you heard of
8 WorleyParsons?

9 A Gosh, it's public knowledge that TVA hired
10 WorleyParsons.

11 Q Okay. Do you know what TVA hired
12 WorleyParsons to do?

13 A To give them the results they wanted.

14 Q All right. And what's the basis of that
15 statement, Mr. Chesney? What personal
16 information do you have about that? What
17 specific information?

18 A I don't have anything to back it up. It's
19 my speculation.

20 Q Okay. Do you have any idea what periods
21 of time WorleyParsons would have worked at the
22 TVA Kingston facility?

23 A What time?

24 Q Yeah. What time period WorleyParsons
25 would have anything -- would have done any work

1 at the TVA Kingston facility.

2 A I don't recall the dates of the
3 inspections and --

4 Q Is it your understanding?

5 A -- evaluations.

6 Q Oh, I'm sorry. Continue.

7 A And evaluations.

8 Q Is it your understanding -- your
9 understanding that WorleyParsons participated in
10 evaluations and inspections at TVA?

11 A Say that again.

12 Q Is it your understanding that
13 WorleyParsons participated in the evaluations or
14 inspections at the TVA Kingston facility?

15 A Yes.

16 Q And what did they evaluate or inspect?

17 A The dike.

18 Q Okay. And what's the basis of that
19 information?

20 A I think it's in this.

21 Q Okay. Do you have any information other
22 than what's contained in the Complaint that
23 you're looking at -- I assume you're looking at
24 Exhibit No. 1 which is the consolidated
25 complaint?

1 A Yes.

2 Q Do you have any other information other
3 than what's contained in that document?

4 A No other documents. Just what I read in
5 the paper and so on.

6 Q Okay. All right. I hope I'm not
7 repeating a question that's been asked of you
8 before.

9 You talked to us about your nasal
10 surgery. Have you had breathing problems in the
11 past of any sort?

12 A Breathing?

13 Q Breathing problems, yes, sir.

14 A No.

15 Q When you were employed both at K-25 and
16 Y-12, I think you indicated that that
17 involved -- generally you got a yearly chest
18 x-ray when you worked there; is that correct?

19 A Yes, part of the physical.

20 Q Part of the physical was a yearly chest
21 x-ray?

22 A Yes.

23 Q Were you ever told of any x-ray changes
24 that were noted on your x-rays? Did doctors
25 report anything to you?

1 A No, not from Y-12.

2 Q What about K-25?

3 A No, not from K-25.

4 Q Any doctor ever report any abnormal x-ray
5 changes, anything about your x-ray that wasn't
6 perfectly normal?

7 A Can we take a break?

8 MS. MORETZ: Sure -- well, I've got a
9 question pending. Do you need to confer with
10 your counsel before you answer that question?

11 THE WITNESS: Yes.

12 MS. MORETZ: Okay. We can take a
13 break.

14 THE WITNESS: Yeah, let's do. Let's
15 take a break.

16 THE VIDEOGRAPHER: Going off the
17 record. The time is 3:05.

18 (Off the record.)

19 THE VIDEOGRAPHER: Back on record.
20 The time is 3:09.

21 MR. DAVIS: Let me -- before he
22 answers that, he had misunderstood the timing of
23 that question, and he wanted to back up to the
24 question that I believe you asked prior to that
25 which was about the time that he was at the Y-12

1 plant.

2 BY MS. MORETZ:

3 Q Okay. Mr. Chesney, if you want to back up
4 to my previous question about the chest x-rays
5 at Y-12, go ahead.

6 A While I was employed at Y-12, it was
7 done -- I had it done when I was employed there,
8 but it was done because of the work at K-25.

9 Q Okay. All right.

10 A They found some small nodules.

11 Q Okay.

12 A And I went through some breathing tests
13 and --

14 Q Did they tell you what those nodules might
15 be related to?

16 A No.

17 Q Did they make a diagnosis other than
18 telling you that they see nodules on your
19 x-rays?

20 A I spoke with a respiratory specialist, and
21 I asked that question. He said it was the
22 consistency of broken glass, so --

23 Q Okay. The breathing tests, were they
24 normal after they found the nodule?

25 A Normal. He said I had small lungs.

1 Q Did they tell you what -- did they tell
2 you that any exposure that you may have had at
3 K-25 was the potential cause of these nodules
4 that they were seeing on your x-ray?

5 A No.

6 Q Did they talk to you at all about what the
7 cause of those nodules on your x-rays were?

8 A No.

9 Q You mentioned that the x-rays and the
10 yearly physicals they were doing was as a result
11 of your work at K-25. Was it particular
12 exposures at K-25 that they were mon -- monit --
13 monitoring you for? Excuse me, I can't say that
14 word.

15 A Y-12 wasn't monitoring me for K-25. This
16 was done by the union at K-25.

17 Q Okay. And what union was that that was
18 conducting this monitoring?

19 A I can't remember their name, ma'am.

20 Q There's a lot of different unions that do
21 work out of that facility; is that correct?

22 A That's correct.

23 Q Okay. But you don't know which one of
24 them would have been sponsoring this particular
25 x-ray program?

1 A It doesn't come to mind. Sorry.

2 Q Okay. No problem.

3 You mentioned that you have a
4 four-wheeler -- is that correct? -- like an ATV?

5 A ATV, yes.

6 Q Okay. Have you continued to use that
7 four-wheeler on your property to run your dogs
8 since the ash spill?

9 A Yes.

10 Q Okay. Do you know if any of the projects
11 that you worked on while you were employed
12 either by K-25 or Y-12 have been declassified so
13 that they're no longer secret projects?

14 A Some have.

15 Q Okay. With regard to those particular
16 projects, can you tell me if your work on those
17 projects involved any hazardous substances or
18 chemicals?

19 A Well, that's a gray area. I'm not sure if
20 I should speak to that or not. It's
21 declassified, the process, but I don't know if
22 the materials in that process are declassified,
23 so I must keep my mouth shut once again.

24 Q You mentioned that you were filtering your
25 water. Did you filter it -- did you have water

1 filters like on a refrigerator on your water
2 prior to the ash spill in 2008?

3 A Yes.

4 Q So is there anything different that you're
5 doing now, since December 2008, with regard to
6 your water that you didn't do prior to December
7 2008?

8 A No.

9 Q It wasn't clear to me. You don't have any
10 pending claim against your former employer,
11 either Y-12 or K-25, whoever you were employed
12 by when you worked there, for any injury? Do I
13 understand that correctly?

14 A You do.

15 Q Where did you live prior to the 423 Emory
16 River Road address?

17 A No. 2 Circle Drive, Kingston.

18 Q And how long did you live at No. 2 Circle
19 Drive, Kingston?

20 A Approximately 15 years.

21 Q Okay. When did you move to Kingston?

22 A 1976.

23 Q Okay. I think that's all the questions I
24 have. I'm going to let Ms. Lowe go ahead, and I
25 think everything will be covered by the time

1 she's finished. Thank you.

2 A You're welcome.

3 E X A M I N A T I O N

4 BY MS. LOWE:

5 Q Mr. Chesney, my name is Ashley Lowe, and
6 hopefully I don't have too many questions for
7 you this afternoon, but I'm going to jump around
8 and try to clarify a few things that I still had
9 questions about.

10 A Okay.

11 Q I represent GeoSyntec Consultants, Inc.
12 who is also a defendant in this case.

13 Do you know who GeoSyntec is?

14 A Barely, through this.

15 Q Is the only knowledge that you have about
16 GeoSyntec what you have read in the consolidated
17 class action complaint that you just referenced
18 or pointed to?

19 A Yes. It may have been mentioned in the
20 local paper.

21 Q Okay. So the information you've read in
22 the consolidated class action complaint and then
23 any information you might have read in a
24 newspaper article, would that comprise your
25 knowledge about GeoSyntec Consultants?

1 A Yes, ma'am.

2 Q Okay. Have you ever talked with anyone
3 who you believe to be an employee of GeoSyntec?

4 A You guys are the first.

5 Q Okay. Any of these meetings that you have
6 been at, are you aware of anybody from GeoSyntec
7 being at those meetings and putting on a
8 presentation?

9 A I am not.

10 Q I know you mentioned earlier that -- or at
11 least what I understood was that after you
12 received the letter from TVA denying your claim,
13 that's when you decided to sue TVA; is that
14 correct?

15 A I decided to get on a class action suit.

16 Q Okay. Did you at any time make a decision
17 to sue GeoSyntec?

18 A No.

19 Q Okay. Do you know why you have sued
20 GeoSyntec in this lawsuit?

21 A Yes.

22 Q What is your understanding of why you have
23 sued GeoSyntec?

24 A You guys were the engineering company that
25 had inspected and evaluated the dikes.

1 Q Is your knowledge or your basis for the
2 knowledge -- or your basis for that statement
3 what you have read in the consolidated class
4 action complaint?

5 A I've read that here, yes.

6 Q We went through your employment history,
7 and I understand you worked at the Container
8 Corp.

9 Did you leave the Container Corp.
10 and go directly to K-25?

11 A Yes, ma'am.

12 Q How long did you work at K-25?

13 A Five --

14 Q Approximately?

15 A Yeah. Five years.

16 Q And then you went from K-25 directly to
17 Y-12?

18 A They transferred me, yes, ma'am.

19 Q And then you retired from Y-12?

20 A Yes, ma'am.

21 Q Is that correct?

22 Okay. Does anyone else hunt on your
23 property currently?

24 A No.

25 Q Did anyone hunt on your property other

1 than you before the spill?

2 A If I invited them.

3 Q Who in particular hunted -- did you invite
4 to hunt on your property with you?

5 A You want -- I assume you want their name
6 or just --

7 Q Yes.

8 A A friend of mine, Harold Gilreath.

9 Q Anyone else that often hunted with you on
10 your property prior to the spill?

11 A I suppose so, but I don't recall. I'd
12 have guests and might have done a morning of
13 archery or turkey.

14 Q Do you have turkey on your property, wild
15 turkey on your property?

16 A Yes, ma'am.

17 Q Did you used to hunt those wild turkey on
18 your property before the spill?

19 A Yes, ma'am.

20 Q But you don't do that any longer; is that
21 correct?

22 A No.

23 Q Have you talked to Mr. Gilreath about why
24 you don't hunt on your property any longer?

25 A Yes.

1 Q What did you tell him?

2 A I told him I didn't think it was safe to
3 eat those deer and turkey.

4 Q Where does Mr. Gilreath live?

5 A I can show you on a map. Their address, I
6 don't have with me.

7 Q Approximately how close does he live to
8 you?

9 A Within 15 miles.

10 Q Would he be a part of the class?

11 A No. It's out of the area.

12 Q You mentioned that you hunted not only on
13 your property but also on some adjoining
14 neighbors' property before the spill; is that
15 correct?

16 A Correct.

17 Q Who are those adjoining neighbors that you
18 hunted on their property as well as yours?

19 A Would you promise you won't go there to
20 try to get them? That's something hunters don't
21 do.

22 One gentleman has a large tract, a
23 large tract, hundreds of acres.

24 Q What's his name?

25 A Dickson, I think, if I recall. I had to

1 go to the courthouse -- he don't live here.

2 Q Does his property directly adjoin yours?

3 A It does not.

4 Q Where is it in relation to your property?

5 A North.

6 Q How do you get there -- if you're hunting,
7 let's say, how would you get there from your
8 property?

9 A Very quietly, because those deer are
10 smart. They hear a four-wheeler coming, so you
11 got to park a ways off and walk.

12 Q Would you go across other property to get
13 there, or would you have to go around?

14 A It's very hilly, so I'll take the lazy
15 man's way and ride around and get as close as I
16 can get to there.

17 Q Any other neighbors, specifically, that
18 you hunted on their property before the spill?

19 A Some of them I've thought about. I have a
20 neighbor, Nick West. I've thought about -- I
21 haven't yet. I haven't hunted on his property,
22 but I've thought about asking him.

23 Q You've thought about asking him to hunt
24 currently on his property?

25 A Before. Before. You know, I'm not going

1 to now.

2 Q So you thought about asking him before,
3 but you didn't?

4 A Right.

5 Q Is the only neighboring property that you
6 hunted the Dickson property before the spill?

7 A Yeah.

8 Q You mentioned hunting in some wildlife
9 management areas --

10 A Yes, ma'am.

11 Q -- after the spill.

12 Did you hunt in these wildlife
13 management areas before the spill?

14 A Yes.

15 Q How often would you hunt in these wildlife
16 management areas before the spill?

17 A Mostly if I was going to hunt deer, I'd
18 hunt at home, or turkey. It would be for small
19 game. I don't have a number I can give you. It
20 would be as I wanted to go.

21 Q Did you fairly regularly hunt in those
22 wildlife management areas?

23 A Before?

24 Q Before the spill.

25 A Yes, because of -- yeah, I grass hunt as

1 well and there's no grass there, so I go where
2 the grass are.

3 Q Because of the nature of the game you were
4 hunting, you would hunt those wildlife
5 management areas anyway?

6 A Right.

7 Q I don't understand -- I understand now you
8 are no longer trapping raccoons on your
9 property; is that correct?

10 A Correct.

11 Q When did you stop trapping raccoons?

12 A When did I stop? When my dogs were
13 hardness certified.

14 Q So you didn't stop trapping raccoons
15 because of the spill, you stopped trapping
16 raccoons for the fact that you didn't need to
17 trap them anymore for your dogs?

18 A Right. And I've not been hungry enough to
19 eat those nasty --

20 Q Before or after the spill.

21 A Right.

22 Q You made a comment earlier about being
23 stung by some yellow jackets, I believe, and
24 indicated that you had some atropine?

25 A Yes.

1 Q Why do you have atropine in your
2 possession?

3 A For the allergy shots I take.

4 Q What do you take allergy shots for?

5 A You want --

6 Q What particular things are you allergic to
7 that you take allergy shots for?

8 A Believe it or not, dogs and cats, horses
9 and cows, oak and sycamore.

10 Q Okay. Which allergy is sufficiently
11 severe that the doctors give you atropine to
12 carry with you?

13 A I'm not sure. Also, I forgot to mention
14 mold is in there. I don't know. You know, I
15 don't -- I don't ask, Is this for Sycamore?
16 See? So, I don't -- I don't know. I just take
17 the shots.

18 Q Have you ever had a reaction severe enough
19 to a particular allergen that you've had to give
20 yourself an atropine shot?

21 A I have not.

22 Q You mentioned attending a meeting or an
23 outreach at Roane State; is that correct?

24 A Yes, ma'am.

25 Q Have you attended any other type of public

1 meeting related to the spill?

2 A The community outreach meetings.

3 Q Okay. Where are those held?

4 A People's houses.

5 Q How often have you attended those
6 meetings?

7 A I attended two, I believe it was.

8 Q And when did you attend those meetings?

9 A There was one immediately following and
10 then a follow-up meeting in a different
11 residence sometime later.

12 Q The first meeting you went to, do you know
13 whose house it was at?

14 A I don't recall their names. They're gone,
15 so --

16 Q Do you recall the address or street?

17 A Yeah, it's on my street. It's --

18 Q On Emory River Road?

19 A Yeah, it's two, three -- well, it's on the
20 lake two or three houses down.

21 Q And it's some people who are no longer
22 living there?

23 A Correct.

24 Q Did they sell their house?

25 A They were bought out.

1 Q By TVA?

2 A Yes.

3 Q Okay. What about the second meeting,

4 where was it?

5 A It was further down, several houses

6 past the peninsula and up on the little rise at

7 the -- I don't know if you've been there, but

8 there's a little sharp curve and a little

9 cemetery.

10 Q Still on Emory River Road?

11 A Yes, ma'am.

12 Q Okay. Do you know whose house that was?

13 A No.

14 Q Were these meetings of the neighbors, or

15 were these meetings that were attended by people

16 from TDEC or TVA or other entities?

17 A Yes, it was all -- all the TVA would be

18 there. In one meeting the property assessor was

19 there also.

20 Q The Roane County property assessor?

21 A Yes.

22 Q Do you know, specifically, who from TVA

23 was in attendance at these meetings?

24 A I don't recall their names.

25 Q Anybody other than representatives

1 of -- representatives of TVA or the Roane County
2 property assessor that you can recall?

3 A I'm terrible with names, and I'm sorry. I
4 don't recall their names, ma'am.

5 Q Any entity that was represented other than
6 TVA or the Roane County property assessor?

7 A I can't say for sure, but I think TDEC and
8 maybe -- and, too, the health department may
9 have been there, I'm not sure. TVA took an
10 attendance, so they would know.

11 Q Okay. Am I correct that both of these
12 meetings were relatively close in time to when
13 the spill occurred?

14 A Yes, ma'am.

15 Q Okay. Ms. Moretz asked you a couple of
16 questions about your work at Container Corp.,
17 and I think you indicated that you probably
18 worked around or with some chemicals in that
19 job.

20 Did you wear any protective gear
21 when you worked at Container Corp.?

22 A Not -- it was hard labor, ma'am. We were
23 operators, but it was -- very hard work, yes.
24 You had gloves, knives.

25 Q Did you wear any type of protective

1 clothing?

2 A No, you got a uniform that you bought.

3 Q Did you ever wear a respirator when you
4 were working at Container Corp.?

5 A They couldn't spell respirator.

6 Q Do you think you should have worn a
7 respirator when you were working at Container
8 Corp.?

9 A I don't know. I don't know what they were
10 working with. I know steam, you know steam goes
11 in the manufacturing of the cardboard, and they
12 mix something together. I don't know.

13 Q You mentioned steam. Was it a dusty
14 environment in any part of the manufacturing
15 facility?

16 A They had ventilation. It was
17 fairly -- you know, it had to be cleaned on a
18 regular basis because they have, you know,
19 cutting knives and that sort of thing.

20 Q Did you observe dust in the air or dust in
21 the facility when you were working? I
22 understand that they would clean it on regular
23 basis, but --

24 A It was very hot in there, so fans were
25 blowing all the time and they had big

1 ventilation fans and they were drawing out. It
2 couldn't be air conditioned because of the
3 process they were doing. It was circulating
4 pretty quickly, you know. You didn't
5 really -- you didn't really notice it.

6 DEPOSITION OFFICER: I'm sorry?

7 THE WITNESS: Didn't notice it.

8 BY MS. LOWE:

9 Q Do you believe you were exposed to any
10 kind of fiber or dusty materials in the air that
11 you were breathing when you worked for Container
12 Corp.?

13 A I don't believe I was.

14 Q Okay. There were some questions asked
15 earlier I think about how often maybe your
16 daughters and your grandchildren were at your
17 house there on Emory River Road. What about
18 your sisters? How often have they visited you
19 at the Emory River Road address since December
20 of 2008?

21 A They don't get around very well, so it's
22 not very often.

23 Q Have they ever visited you for an extended
24 period of time, stayed overnight for multiple
25 days or a week?

1 A No.

2 Q What about your brother?

3 A No.

4 Q Has he visited for an extended period of

5 time?

6 A Pardon?

7 Q Has he visited at your house for an

8 extended period of time?

9 A No.

10 Q Following -- in the month or so following

11 the spill itself, were there people at your

12 property other than you or your wife that

13 observed the ash in the cove that was depicted

14 in one of the photographs that I believe is in

15 Exhibit 6?

16 A Yes.

17 Q Okay. Who are the people who observed --

18 A Family.

19 Q -- conditions?

20 A Family.

21 Q Okay. What family members in particular?

22 A Let's see.

23 Son-in-law, daughter, daughters,

24 brother-in-law, sister-in-law.

25 Q Okay. What is the name of your

1 son-in-law?

2 A Starting with the oldest one, Ryan
3 Woodley.

4 Q And he is married to -- to Holly or
5 Heather?

6 A Holly.

7 Q Okay. What about Heather?

8 A Yes, she's married to Brian Owings.

9 Q Brian or Ryan?

10 A Brian.

11 Q Okay. So the first one is Ryan?

12 A First one is Ryan.

13 Q And the second one is --

14 A The second one is Brian.

15 Q Brian. Okay, got you.

16 A And if you're hard of hearing, it's very
17 easily confused.

18 Q I understand.

19 What about -- what's your
20 brother-in-law's name?

21 A Gordon Jones.

22 Q And who is he married to?

23 A He's my wife's brother.

24 Q Okay. What is his wife's name?

25 A Sherry.

1 Q Okay.

2 A He married my ex-wife. I'm lying.

3 Q I won't go there.

4 Any other family members who were at
5 your house relatively close in time to the spill
6 and would have seen it in a similar condition to
7 the photograph that you took?

8 A Could have been one of my other
9 brother-in-laws, I'm not sure.

10 Q Okay. What's his name?

11 A Casey Jones.

12 Q Is that your wife's brother as well?

13 A Yes.

14 Q Does your wife have any other family in
15 the Kingston area?

16 A Yes.

17 Q Okay. What other family does she have in
18 the Kingston area?

19 A She has another brother.

20 Q What's his name?

21 A Joe.

22 Q Jones?

23 A Yes.

24 Q Okay. Do you have any -- well, do either
25 of your wife -- either you or your wife have any

1 groups that meet at your house on a regular
2 basis?

3 A No, ma'am.

4 Q Okay. Are you involved in any local clubs
5 or organizations?

6 A No.

7 Q Since you built that house there on Emory
8 River Road, have you ever made any claims for
9 damage to that home under your insurance policy?

10 A I think not.

11 Q Okay. Do you know anyone who works at the
12 Kingston plant?

13 A Not anymore. I mean, I've known people
14 that worked there.

15 Q Who have you known that have worked at the
16 Kingston plant?

17 A Walter Calbough.

18 Q Walter?

19 A C-a-l-b-o-u-g-h.

20 Q Do you know what he did there?

21 A No.

22 Q Do you know when he last worked at the
23 plant?

24 A No.

25 Q Anyone else?

1 A I just know that he worked there.

2 Q Okay. Anyone else that you know of that
3 has ever worked at the Kingston plant?

4 A No, ma'am, not that comes to mind. I
5 know, Where do you work?

6 I work at TVA, that sort of thing,
7 and I don't recall their names.

8 Q What doctors have you seen in the last
9 five years?

10 A Dr. Grady for the endoscopy.

11 Q Do you know his first name?

12 A Am I giving you -- it's Grady -- gosh, I
13 went brain dead again. No.

14 Q Where is Dr. Grady located?

15 A Knoxville, Park West.

16 Q Is he like an ear, nose and throat?

17 A Ear, nose and throat specialist. It's a
18 group of doctors.

19 Q Okay. What other doctors have you seen in
20 the last five years?

21 A Primary care.

22 Q Who is your primary care doctor?

23 A Rodney McMillin.

24 Q Where is he located?

25 A Harriman.

1 Q Okay. Any other doctors in the last five
2 years?

3 A Five years, five years, five years, five
4 years.

5 I believe it's been longer than five
6 years since I had the foot -- I had double
7 carpal tunnel.

8 Q Okay. Who did your double carpal tunnel
9 surgery?

10 A I don't recall his name. He's real good.
11 I don't --

12 Q Is he in Knoxville?

13 A Yes.

14 Oh, yes, I'm sorry. I did see an
15 orthopedic doctor.

16 Q Okay. Who was that?

17 A His last name was -- he's in the same
18 building but obviously a different group.

19 Q Same building?

20 A Park West.

21 Q Okay.

22 A McKinney, I believe is his last name.

23 Q McKinney?

24 A Yeah.

25 Q So he's in the same building as Grady?

1 A Yeah.

2 Q Did you ever review the Complaint in the
3 Vicky and Richard Long matter?

4 A I'm not -- is that in here?

5 Q It was before the consolidated class
6 action complaint.

7 Did you ever -- have you reviewed
8 any Complaints other than that consolidated
9 class action complaint that's Exhibit 1 to your
10 deposition?

11 A I don't believe so.

12 Q I think those are all the questions I
13 have, and I think we're running out of tape,
14 So --

15 MR. SHERK: I have just a small
16 couple of questions. Maybe we should -- how
17 much tape do you have left?

18 THE VIDEOGRAPHER: This marks the end
19 of tape No. 4. Going off the record. The time
20 is 3:39.

21 (Recess.)

22 THE VIDEOGRAPHER: On record. This
23 marks the beginning of tape No. 5. The time is
24 3:46.

25 BY MS. LOWE:

1 Q Mr. Chesney, I do have just a couple more
2 questions for you, and Mr. Sherk has kindly
3 agreed to let me go ahead before he asks his few
4 follow-up questions.

5 Who was your employer when you were
6 at K-25?

7 A Union Carbide.

8 Q Okay. What about when you were at Y-12?
9 Who was your employer there?

10 A Union Carbide, Lockheed, Lockheed and
11 Martin, BWXT.

12 Q So when you started out you were with
13 Union Carbide?

14 A Yes.

15 Q And then you went to Lockheed Martin, and
16 then when you retired you were working for BWXT?

17 A Yes.

18 Q Who was your allergist? Who do you get
19 your allergy shots from?

20 A I was referred. Well, that -- in that
21 same group that I can't think of the name of.
22 They have -- I really don't see an allergist.
23 They have nurses that I go see.

24 Q The same group?

25 A Yes.

1 Q With Dr. Grady, that ENT?

2 A Yes, he referred me to that group. It's

3 just a connecting office with him.

4 Q There at Park West?

5 A Yes.

6 Q How long have you been taking allergy

7 shots?

8 A This is my second year. I take them at

9 home now. I don't go there to get them. I get

10 the -- the serum from them.

11 Q Okay. But you've only been taking allergy

12 shots for two years?

13 A I'm working on the second year. I started

14 shortly after the surgery, so --

15 Q Did they tell you why they wanted you to

16 start taking allergy shots?

17 A Actually, I asked the doctor what's

18 causing this, and he said most likely allergies.

19 And I was tested, and he came back with those

20 results.

21 Q When you say "What's causing this," what

22 "this" are you referring to?

23 A Sneezing, wheezing, coughing.

24 Q When did you first notice those symptoms?

25 A Long -- long ago.

1 Q Okay. so this is something you've been
2 dealing with for a long time?

3 A Yeah.

4 Q You mentioned some nodules that were found
5 on the chest x-ray when you were working at
6 Y-12?

7 A Yes, ma'am.

8 Q Did you have any follow-up examinations
9 after they found the nodules?

10 A From that I went -- the union set up a
11 respiratory specialist, as I said earlier. I
12 seen him, and they did this awful breath test
13 that you pass out. And that's -- you know, he
14 told me about the nodules and the consistency of
15 broken glass, and I didn't understand what that
16 meant. But -- and then he said my lungs were
17 too small, so --

18 Q That genetically your lungs were too
19 small? Is that --

20 A For my body and --

21 Q Okay. Did they recommend any kind of
22 treatment for you? Did this respiratory
23 therapist recommend any kind of treatment for
24 you?

25 A No, it didn't show anything. I had plenty

1 of wind.

2 Q Did any doctor follow up with you after
3 that breathing test?

4 A No.

5 Q Or schedule you to have that breathing
6 test on a, you know, regular follow-up basis?

7 A I'm sorry. I interrupted you. I'm
8 anxious.

9 No.

10 Q Is any doctor currently following you for
11 the nodules in your lungs that were found by the
12 chest x-ray?

13 A No, ma'am. I dropped out of the program.

14 Q When did you drop out of the program?

15 A Well, they still call.

16 A A couple weeks ago I said, Don't call no
17 more.

18 Q When you say "they still call," who is
19 they?

20 A The union. It was at K-25, AFL-CIO.

21 DEPOSITION OFFICER: I'm sorry?

22 THE WITNESS: AFL-CIO, I believe was
23 the union. They're affiliated with them, so --

24 BY MS. LOWE:

25 Q Do you know what person called you a

1 couple weeks ago?

2 A He gave me a name, and I don't recall.

3 Q Okay. Do you have any recent
4 documentation that you've gotten from the union
5 related to the -- any follow-up related to this
6 chest x-ray and the nodules that they found?

7 A I didn't retain that.

8 Q When you say -- you said something about a
9 program. Does it have a name? Does the program
10 have a name?

11 A I'm sure it does, but I don't -- I don't
12 know the -- exposed workers or something to that
13 effect.

14 Q Is it a program that is run by the union?

15 A No. They bring in lung -- a scanner.

16 Q Did you continue to have any scans after
17 you retired from Y-12?

18 A No.

19 Q Okay. Did you continue to participate in
20 the program in any way through the union after
21 you retired from Y-12?

22 A No.

23 Q Why not?

24 A My -- I just didn't want to. I didn't
25 think it was important to me, you know.

1 They made their diagnosis, it's not going to
2 go. It's there, so I didn't see the need in my
3 mind, you know. I'm pretty active. I get
4 around. I'm not short of breath other than high
5 blood pressure, so I didn't see the need.

6 Q Did you ever tell your primary care
7 physician or your ENT about this chest x-ray and
8 the nodules that were found?

9 A He has all my records, yes, my primary
10 care.

11 Q Your primary care doctor has your records?

12 A Yeah.

13 Q From the Y-12, K-25 evaluations that were
14 done?

15 A No, I don't think so.

16 Q Okay. When you say he has all your
17 records, what records would he have related to
18 them?

19 A I thought you were talking about the
20 nodules.

21 Q What records would your primary care
22 doctor have related to the nodules?

23 A He would have the results, I think. I
24 think -- you know, there was a form, if I recall
25 correctly, that, you know, Where do you want

1 this sent? -- meaning my primary care. So if I
2 recall correctly, I had that done.

3 Q Okay.

4 A I do that most of the time.

5 Q Is the primary care doctor that you have
6 now the same primary care doctor that you had
7 when you had this chest x-ray done that found
8 the nodules?

9 A Yes.

10 Q I understand you were getting yearly, what
11 we'll call, physicals or evaluations, but
12 they're probably more in depth than a typical
13 physical you would get from a doctor when you
14 were at K-25 and Y-12; is that correct?

15 A Yes.

16 Q Okay. Did you continue to get those
17 yearly evaluations or physicals for any period
18 of time after you retired?

19 A No. They cleared you out of the program,
20 so --

21 Q Okay.

22 A You get one when you retire.

23 Q And then no more after that?

24 A They're through with you.

25 Q Okay. Those physicals or evaluations that

1 you were having while you were working at K-25
2 and Y-12, where did they do those physicals?

3 A At the facilities.

4 Q At the plant?

5 A Yes.

6 Q Okay. I think I really am done this time.
7 Thank you, Mr. Chesney.

8 A You're welcome.

9 F U R T H E R

10 E X A M I N A T I O N

11 BY MR. SHERK:

12 Q I just have a small cupful of questions for
13 you, Mr. Chesney.

14 We've been talking about the nodules
15 that were found on your lungs. Has any doctor
16 told you that nodules can expand in size and
17 become lung tumors?

18 A No.

19 Q If you knew that, would that change your
20 decision about continuing to participate in the
21 program for exposed workers that the union has
22 been calling you about?

23 A I don't have much confidence in them,
24 that's why I dropped out. So I would probably
25 seek other medical care elsewhere.

1 Q Okay. Is it your understanding that the
2 union was calling you to try to get you to come
3 back to be in the program?

4 A Yes, that's their job. Yes, they've got a
5 nice job there doing that.

6 Q Changing the subject. I know you gave me
7 the location of your daughters' addresses, but
8 I'm not sure precisely where they live in the
9 community.

10 Would they both be a part of the
11 resident class that's been proposed here?

12 A One lives in Kingston -- resident class?

13 Q The one you drew the big circle about.

14 A Yeah. Yes, Heather. Holly is outside of
15 it.

16 Q Do you believe that they have, then, been
17 exposed and require medical monitoring?

18 A I don't think so.

19 Q Do you believe that your grandchildren
20 have been exposed and require medical
21 monitoring?

22 A They've been in the area, you know, for a
23 week. So, you know, I can't -- I don't know.

24 Q Did you ever ask TDEC or the EPA to
25 monitor any soil samples on your property?

1 A No, but I'm going to.

2 Q You have that intention?

3 A I have a concern.

4 Q When you bought your property back in

5 1993, were you aware of the TVA facility?

6 A Yes.

7 Q You could see it from the property?

8 A Real clear.

9 Q Did you knew it generate -- did you know

10 back then that it generated electricity?

11 A Yes, sir.

12 Q Did you know it was a coal burning plant?

13 A Yes, sir.

14 Q Okay. Were you able to see the

15 impoundment ponds?

16 A Yes, sir.

17 Q Do you believe that you were exposed to

18 fly ash before December 22, 2008?

19 A I trust their stack monitors, that, you

20 know, that they weren't releasing it, that their

21 dams were catching it and monitoring it

22 correctly. That was my belief.

23 Q It's not a concern you had, then?

24 A No.

25 Q Okay. You testified earlier today that

1 you have been screened for beryllium before?

2 A No, I did not say I had been screened for
3 beryllium. I'm sorry.

4 Q Okay. I want to make sure I understand
5 your testimony about exposure.

6 So let me see if I can summarize it
7 for you. Please let me know if I get anything
8 wrong.

9 Okay?

10 A Yes.

11 Q You believe that since December 22, 2008,
12 you had been exposed to fly ash through the air?

13 A Yes, sir.

14 Q And you believe that since December 22,
15 2008, the exposure has been continuous?

16 A Yes.

17 Q And you believe that since December 22,
18 2008, the concentrations of fly ash had been the
19 same day to day?

20 MR. DAVIS: Objection to the form of
21 the question.

22 THE WITNESS: I have -- I don't know.
23 It was there then. I'm sure as I'm sitting
24 here, it's there now because I can see it at the
25 storage area across the cove, so --

1 MR. SHERK: You can see ash --

2 THE WITNESS: What level it is, yes.
3 It's not been contained yet. I don't know what
4 level that is.

5 BY MR. SHERK:

6 Q Okay. Do you believe that you are being
7 exposed to fly ash every day at the same level
8 regardless of the wind or weather or atmospheric
9 conditions?

10 A My assumption would be they would be
11 different depending on the wind.

12 Q And the weather and the atmospheric
13 conditions?

14 A Yes.

15 Q If I understand it correctly, you don't
16 have any data or documentation or photographs
17 that evidence the presence of fly ash in the air
18 at your property?

19 A I do not.

20 Q There may be a little bit of a -- a blip
21 in the record here.

22 I believe you testified before that
23 you couldn't see the fly ash in the air; is that
24 correct?

25 A You can't see it.

1 Q But what you were talking about a minute
2 ago, what you could see are the ash at the
3 containment area that's being remediated?

4 A Yes.

5 Q That's what you were talking about that
6 you could see?

7 A You could see that, yes. It's dry, so I'm
8 assuming it's airborne.

9 Q Okay. Have you ever seen any trucks
10 driving around the area to wet it down?

11 A Yes, I see trucks and cranes and dozers
12 and all kinds of heavy equipment.

13 Q Do you ever see any trucks that are laying
14 water on the piles?

15 A I can't make that out. I -- by news,
16 what's in the news. I know they -- at first
17 they weren't washing the tires, but then they
18 started sometime after it was brought to their
19 attention.

20 Q And it's your testimony that you don't
21 think that you were exposed prior to December
22 22, 2008, because you were relying on TVA's
23 compliance with emissions standards and
24 therefore there has been no exposure to fly ash
25 on a historical basis?

1 MR. DAVIS: I'm going to object to
2 the question. It's vague, and it's compound.

3 BY MR. SHERK:

4 Q You can answer.

5 A Well, before this happened I trusted them,
6 and then they lost that trust when this disaster
7 happened.

8 Q Is it still your testimony, though, that
9 you don't believe that you were exposed prior to
10 December 22, 2008?

11 A Now I think I may have been, but prior to
12 2000 -- December 22, 2008, I had trust in TVA
13 and their operation. Let me back that up
14 because I think I see. I had said I had faith
15 before in their monitoring, scrubbing and
16 monitoring in the dams, in the stacks.

17 Q Yes.

18 A So I had trust in that.

19 Q Okay. And that's why you think --

20 A Not as much now.

21 Q So is your testimony that you have enough
22 trust sitting here today that you don't believe
23 you were exposed to fly ash prior to December
24 22, 2008?

25 A You know, if somebody lies to you about

1 one thing, they'll lie to you about another. So
2 I can't say that I have full confidence, you
3 know. I mean, as I said before, you know, at
4 the time before the incident I trusted them, and
5 now I hope and pray that they haven't -- you
6 know, that they haven't been releasing anything
7 to the atmosphere above EPA limits. But I'm not
8 going to bet the farm on it. That's what I
9 mean.

10 MR. SHERK: I don't have any more
11 questions.

12 MR. DAVIS: I may have one to clear
13 up the record, but I would like to confer with
14 the client first.

15 MR. SHERK: Sure.

16 THE VIDEOGRAPHER: Going off the
17 record. The time is 4:04.

18 (Recess.)

19 THE VIDEOGRAPHER: On record. Time
20 is 4:07.

21 E X A M I N A T I O N

22 BY MR. DAVIS:

23 Q Mr. Chesney, I'm going to show you
24 the -- what we've marked as Exhibit 17 which is
25 the actual map or copy of the actual map that we

1 attached to the consolidated class action
2 complaint to show the boundaries of the class 1
3 area that we've discussed in this deposition.

4 Can you look at those boundaries and
5 determine where the city of Kingston is?

6 A Yes, sir. I made a mistake. Kingston
7 would be this area.

8 (Marked Exhibit 17.)

9 BY MR. DAVIS:

10 Q Is that outside of the class 1 boundaries?

11 A Yes, sir.

12 Q And you mentioned that your daughter
13 Heather lives in Kingston?

14 A Yes, sir.

15 Q Where does she live in relation to the
16 class 1 boundaries?

17 A Outside.

18 Q And why -- you mentioned you didn't
19 believe she needed medical monitoring.

20 Why is that?

21 A She's not inside the boundary.

22 Q And when you say the boundary, you mean
23 the boundary for the resident class?

24 A Resident class, yes, sir.

25 Q Okay. Thank you.

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F U R T H E R
E X A M I N A T I O N

BY MR. SHERK:

Q One more follow-up question then.

Does your daughter Holly live within
the class boundary?

A Can you show me Longville Road?

Q Let me see this one. If you can read it,
it's probably there.

MR. DAVIS: It's way off this map?

THE WITNESS: Okay. She's outside.
It's off the map, so obviously --

BY MR. SHERK:

Q Are you confident of that, sir?

A It's outside the boundary, I mean, from
what I can see here. I don't have a road map,
but --

Where is K-25?

Q Let me see.

MR. DAVIS: I think we can all agree
that Longville Road is nowhere on this map.

MR. SHERK: Very God, then. Thank
you, sir.

THE VIDEOGRAPHER: This concludes the
deposition of George Chesney, Volume 1. The

1 number of tapes used was five. Going off the
2 record. The time is 4:10.

3 (Deposition session concluded at 4:10 P.M.)

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1 REPORTER'S CERTIFICATE

2 I certify that the witness in the
3 foregoing deposition, GEORGE CHESNEY, was by me
4 duly sworn to testify in the within-entitled
5 cause; that the said deposition was taken at the
6 time and place therein named; that the testimony
7 of said witness was reported by me, a Shorthand
8 Reporter and Notary Public of the State of
9 Tennessee authorized to administer oaths and
10 affirmations, and said testimony, pages 1
11 through 263 was thereafter transcribed into
12 typewriting.

13 I further certify that I am not of
14 counsel or attorney for either or any of the
15 parties to said deposition, nor in any way
16 interested in the outcome of the cause named in
17 said deposition.

18 IN WITNESS WHEREOF, I have hereunto
19 set my hand the 1st day of September, 2010.



25 Katherine Gale, CSR, LCR #420
My commission expires: 2/27/2012

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E R R A T A

I, GEORGE CHESNEY, having read the foregoing deposition, Pages 1 through 263, taken August 20, 2010, do hereby certify said testimony is a true and accurate transcript, with the following changes, if any:

PAGE	LINE	SHOULD HAVE BEEN
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GEORGE CHESNEY

Notary Public

My commission expires: _____

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In The Matter Of:
George Chesney, et al. v.
Tennessee Valley Authority, et al.

Patricia Cordell
August 19, 2010

Vowell & Jennings, Inc.
214 Second Avenue North
Suite 207
Nashville, Tennessee 37201
615-256-1935



Original File 081910A.TXT
Min-U-Script® with Word Index

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

GEORGE CHESNEY; VIRGIL)
MAINES; WILLIAM GADDIS;)
DEBRA BURNUM; PATRICIA)
CORDELL; JAMES G.)
WORLEY; JEWEL H.)
FRANCIS; DONALD W.)
SIMON; and BARBARA M.)
PHILLIPS,)
)
Plaintiffs,)
)
vs.) CASE NO. 3:09-CV-09
)
TENNESSEE VALLEY)
AUTHORITY; GEOSYNTEC)
CONSULTANTS, INC.; and)
WORLEYPARSONS)
CORPORATION,)
)
Defendants.)
_____)

VIDEOTAPED DEPOSITION OF:

PATRICIA CORDELL

Taken on Behalf of the Defendants

August 19, 2010

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1 The videotaped deposition of
2 PATRICIA CORDELL, taken on behalf of the
3 Defendants, on the 19th day of August, 2010, at
4 9:09 A.M., in the Law Offices of Cooley, Cooley
5 & McFarland, 1021 Waterford Place, Kingston,
6 Tennessee, for all purposes under the Tennessee
7 Rules of Civil Procedure.

8 The formalities as to notice,
9 caption, certificate, et cetera, are waived.
10 All objections, except as to the form of the
11 questions, are reserved to the hearing.

12 It is agreed that Katherine Gale
13 being a Notary Public and Court Reporter for the
14 State of Tennessee, may swear the witness and
15 that the reading and signing of the completed
16 deposition by the witness are reserved.

1 P R O C E E D I N G S

2 THE VIDEOGRAPHER: Here begins

3 Volume 1, videotape No. 1 in the deposition of
4 Patricia Cordell in the matter of Chesney, et
5 al. vs. Tennessee Valley Authority in the United
6 States District Court, Eastern District of
7 Tennessee at Knoxville.

8 The case numbers are 3:09-cv-9,
9 3:09-cv-48, 3:09-cv-54, 3:09-cv-64, 3:09-cv-517.
10 Today's date is August 18 -- 19, 2010. Time on
11 the video monitor 9:09 A.M. The video operator
12 today is Rudy Smith. The video deposition is
13 taking place at 1021 Waterford Place, Kingston,
14 Tennessee.

15 Counsel, please identify yourselves
16 and state whom you represent.

17 MR. DAVIS: Gary Davis representing
18 Ms. Cordell.

19 MS. FRY: Brantley Fry representing
20 Ms. Cordell.

21 MR. SHOCKLEY: Gary Shockley
22 representing GeoSyntec Consultants, Inc.

23 MS. MORETZ: Denise Moretz
24 representing WorleyParsons.

25 MS. WARD: Elizabeth Ward

1 representing TVA.

2 MR. MARQUAND: Brent Marquand for
3 TVA.

4 MR. ANSTOETTER: Mark Anstoetter with
5 Shook, Hardy & Bacon, representing the Tennessee
6 Valley Authority.

7 MR. SHERK: John Sherk also with
8 Shook, Hardy & Bacon for TVA.

9 THE VIDEOGRAPHER: Court reporter,
10 would you please swear in the witness.

11 PATRICIA CORDELL
12 was called as a witness, and after having been
13 first duly sworn, testified as follows:

14 E X A M I N A T I O N

15 BY MR. SHERK:

16 Q Please state your name for the record.

17 A It's Patricia Renae Cordell.

18 Q Ms. Cordell, once again, my name is John
19 Sherk. I'm a lawyer with Shook, Hardy & Bacon,
20 and I'll be -- I am representing the Tennessee
21 Valley Authority.

22 I'll be asking you many of the
23 questions today, although some of my fine
24 colleagues may have follow-up questions.

25 Let me begin by asking you whether or

1 not you have ever had your deposition taken
2 before.

3 A No, I have not.

4 Q Okay. Let me explain a few of the ground
5 rules.

6 As you can see, we have a court
7 reporter who is taking down everything that you
8 say. We also have a videographer that is making
9 a video of this deposition. I'll be asking you
10 questions during the morning and probably into a
11 little bit of the afternoon.

12 As I ask my questions, you'll have to
13 give me a verbal response.

14 Okay?

15 A Yes.

16 Q There we go.

17 If at any time you don't understand
18 the question that I'm asking you, please let me
19 know.

20 All right?

21 A Yes. Got it.

22 Q If you -- if you don't understand, I won't
23 be able to know that, so I just want to make
24 sure that we're both very clear about what we're
25 saying.

1 Okay?

2 A I understand.

3 Q It's also important that you allow me to
4 finish my question before you respond.

5 All right?

6 A I understand.

7 Q That's because it's very difficult for the
8 court reporter to get down an accurate
9 transcript when we're interrupting each other.

10 A I understand.

11 Q Great.

12 Are you feeling good such that you
13 can give full and accurate testimony today?

14 A Yes.

15 Q You're on no medications or anything like
16 that that would impair your ability to give full
17 and accurate testimony?

18 A No.

19 Q Great.

20 Let me ask you this: What did you do
21 to prepare for your deposition today?

22 A I read the case file that was sent to me
23 by my lawyers, and just over the past couple
24 years, just talking to them and getting the
25 information and reading what's come out in the

1 news and all that. I've just tried to prepare
2 myself the best I can.

3 Q Very good. Thank you. One other thing I
4 should mention. If -- if at any time you'd like
5 to take a break, just let me know. We're --
6 we're happy to accommodate that.

7 A Okay.

8 Q This also is not a memory test. Just do
9 the best you can to answer the questions.

10 All right?

11 A Uh-huh.

12 Q Good.

13 Did you review the consolidated class
14 action complaint in preparation for today's
15 deposition?

16 A Yes, I did.

17 Q Okay. Great.

18 Any other case-related pleadings
19 that you recall that you reviewed in preparation
20 for today's deposition?

21 A Not that I recall.

22 Q Okay. Did you have any input in the
23 drafting of the consolidated class action
24 complaint?

25 A In drafting it, just the inputs that I

1 provided to them for the documents that they
2 requested.

3 Q Okay. So in other words, your counsel
4 requested that you provide them with certain
5 categories of documents and you did that?

6 A Yes.

7 Q Okay. You didn't give any information or
8 advice as to how they should craft their legal
9 class action complaint here, though?

10 A I think the information that I gave them
11 helped them to represent me in the way that I
12 need to be represented. They're the experts,
13 that's why we -- you know, we went to the -- to
14 the -- to the level to hire a lawyer to
15 represent us.

16 Q Okay. Did you review the interrogatory
17 responses that your counsel provided to us?

18 A Yes.

19 Q Okay. Did your counsel ask you for
20 information as they were preparing responses to
21 the interrogatories?

22 A I don't understand your question.

23 Q I'll revisit that a little bit later.

24 A Okay.

25 Q Did you meet with counsel in advance of

1 today's deposition?

2 A Yes.

3 Q When did you meet?

4 A Yesterday afternoon.

5 Q Who was there?

6 A Mr. Davis and Brantley Fry.

7 Q Anybody else?

8 A I won't remember their names, but they're
9 on the -- the document. Mr. Byrne was there
10 and --

11 MR. DAVIS: Brandes.

12 THE WITNESS: Brandes, yes.

13 Mr. Brandes was there.

14 MR. DAVIS: Before he goes any
15 further, I would advise you not to state
16 anything that was said in those meetings.

17 BY MR. SHERK:

18 Q Absolutely.

19 Is that the only meeting that took
20 place between you and your counsel in
21 preparation for today's deposition?

22 A Yes.

23 Q Have there been other meetings with
24 counsel not related to preparation for today's
25 deposition that you've taken part in?

1 A The only other meeting I had was when they
2 came to my home and discussed being a class
3 representative with me and what that meant, and
4 then I just had conversations on the phone,
5 mostly with Brantley, about how the case was
6 progressing and just to get updates.

7 Q When did they come to your home?

8 A I don't remember the date.

9 Q Do you remember the year?

10 A I believe it was -- I believe it was in --
11 I don't remember. I'm not real good with dates.

12 Q It was certainly since 2008?

13 A Yes.

14 Q All right. Did you talk with friends or
15 family members about today's deposition?

16 A No. No.

17 Q With your husband?

18 A My husband. But just basic, you know,
19 pray for me, help me to be calm, things like
20 that.

21 Q He didn't give you any rules of the road
22 or advice?

23 A No.

24 Q Okay. Have you talked with your pastor or
25 minister about this case?

1 A No.

2 Q Do you belong to a church in the area?

3 A I do.

4 Q What church is that?

5 A Kingston First Baptist.

6 Q Is there any reason why you may not have

7 consulted with your pastor or minister?

8 A I just didn't feel I needed to.

9 Q Have you talked to a psychiatrist or

10 psychologist regarding the --

11 A No.

12 Q -- regarding the Kingston ash spill?

13 A No.

14 Q Do you have e-mail or Internet at home?

15 A I do.

16 Q Do you use your e-mail to talk about the

17 TVA ash spill or this lawsuit?

18 A No.

19 Q Do you belong to an Internet group where

20 information about the spill or the cleanup

21 activities are discussed?

22 A I did when it first happened, and that was

23 before we hired a lawyer, but I didn't really

24 participate, I just received e-mails. I never

25 responded or got involved in it.

1 Q From whom did those e-mails come?

2 A I can't even remember.

3 Q Neighbors?

4 A Probably. I didn't know most of the folks
5 that were sending things out.

6 Q Do you search the web, visit blogs, that
7 kind of thing?

8 A Not really blogs. I'll -- I'll go out and
9 search just to look for news articles that have
10 been released or when -- if something happens,
11 I'll go out and research just a little bit on
12 what's going on. And then, if I have questions,
13 I'll usually consult my legal counsel.

14 Q So when you do research and investigation,
15 is that about world events or is it more
16 specifically tied to the situation in Kingston?

17 A It's mostly just for what's going on in
18 Kingston, just to keep myself somewhat updated
19 on where we're at and what's going on.

20 Q What websites do you visit?

21 A One, the Knoxville News Sentinel. They
22 put articles out. WATE News channel's got a
23 section where you can go look up what's going on
24 in the local community. Just -- just local
25 things.

1 Q Do you visit the TVA website from time to
2 time?

3 A Occasionally, yes.

4 Q Are there websites of others in the
5 community that are involved in litigation or
6 pursuing claims that you visit from time to
7 time?

8 A No.

9 Q Is -- have you corresponded by e-mail with
10 anybody that you know that has a pending lawsuit
11 against TVA?

12 A No.

13 Q Okay. When you were gathering the
14 documents that your counsel asked you to collect
15 in connection with the request for production
16 that we filed, did you -- did you look at your
17 e-mails and print any of them that were
18 relevant?

19 A No.

20 Q Do you believe you have e-mails on your
21 computer that are or may be relevant to this
22 litigation?

23 A I do not believe I do anymore.

24 Q Ms. Cordell, I'd ask you to just go back
25 and do a check for me, if you don't mind, and

1 then provide hard copies to your counsel.

2 Mr. Davis --

3 MR. DAVIS: She will. And, you know,
4 just to make it clear, at the time that she was
5 receiving e-mails on this list serve that she
6 mentioned, she was not represented by counsel.
7 And this was before she retained counsel in this
8 case.

9 MR. SHERK: Okay.

10 Q So since you've retained a lawyer, you've
11 been keeping track of e-mails and you've been
12 mindful to keep things that might be relevant?

13 A Since I've retained counsel I'm not in
14 that news group any longer and I don't
15 participate into those types of things at all.

16 Q So the only e-mails, as I understand it,
17 that you've received regarding the spill at the
18 TVA facility have been related to the news group
19 that you formerly were in?

20 A Yes.

21 Q When did you retain counsel?

22 A I don't remember the date exactly that I
23 signed the retainer.

24 Q How many months after the spill,
25 approximately?

1 A I think approximately six -- six months,
2 six to eight months.

3 Q So May, June, July of last year, something
4 like that?

5 A Yes.

6 Q And you did hire Mr. Davis?

7 A I actually was working with Becky -- Becky
8 Verneti initially, and she's no longer working
9 here or with the firm. So then I started
10 working with Brantley and Mr. Davis, you know.
11 So they're all kind of linked together.

12 Q Same law firm, as you understand it?

13 A Mr. Davis is my -- you know, my primary
14 person with Brantley and Beasley, Allen, so --

15 Q And the Beasley, Allen firm represents you
16 as well?

17 A Right.

18 Q Let's shift gears. Let's -- let's shift
19 gears a little bit and talk a little bit about
20 your background.

21 Okay?

22 A Sure.

23 Q Are you married?

24 A I am.

25 Q What is the name of your husband?

1 A Thomas Cordell.
2 Q How long have you been married?
3 A 22 years.
4 Q So you were married in 1987?
5 A Yes.
6 Q How long have you lived here in the area?
7 A We bought our home in 2000, July of 2000.
8 Q What's your address again?
9 A 1346 Swan Pond Circle.
10 Q Have you been married before?
11 A No.
12 Q Do you have children?
13 A I do.
14 Q How many?
15 A Three.
16 Q What are their names and ages?
17 A Thomas Cordell, or T.J., we call him, is
18 20.
19 Q Okay.
20 A Makayla.
21 Q She's 20 years old?
22 A Uh-huh. Makayla is 16.
23 Q How do you spell her name?
24 A M-a-k-a-y-l-a.
25 Q All right.

1 A She is 16 years old. And Lillian is 12.

2 Q What's your date of birth?

3 A 2/14/67.

4 Q You were born on Valentine's Day?

5 A I was.

6 Q Do all your children live with you?

7 A Right now, yes.

8 MR. DAVIS: Your husband gets a
9 twofer.

10 MR. SHERK: No kidding.

11 Q Have there been times in the past where
12 not all three kids have lived at home?

13 A Yes.

14 Q Makayla is in high school?

15 A Yes.

16 Q Where does she go to high school?

17 A Roane County High in Kingston.

18 Q Roane County High?

19 A Uh-huh.

20 Q How about Lillian?

21 A She's in Cherokee Middle School.

22 Q And T.J., does -- is he done with school?

23 A He is. He graduated last year and did one
24 year at Roane State and right now is working
25 with a recruiter to go into the Air Force.

1 Q And there's a proud tradition in your
2 family of Air Force service?

3 A Yes, that's correct.

4 Q During what period of time did T.J. not
5 live in the home?

6 A Let's see. T.J. moved out in the fall of,
7 I guess, 2009 and moved back right after the
8 holidays.

9 Q So he was gone for six months?

10 A Yeah, give or take, yeah.

11 Q So he did one semester at -- what was
12 that?

13 A Roane State.

14 Q Roane State, okay.

15 A He did two. He went the full year last
16 year to Roane State, two semesters.

17 Q So he was gone -- he lived at -- in your
18 home during the spill?

19 A Yes.

20 Q And for, what, nine months thereafter?

21 A Yeah.

22 Q Okay. And then he was gone for a --

23 A For a few months, yeah. He was living at
24 home when he was going to school.

25 Q Oh, okay.

1 A Yeah, because Roane State is right down
2 the street from us. And so he pretty much lived
3 at home except for those, you know, four or five
4 months. I'd have to look at the calendar to
5 figure out exactly the time that he had moved
6 out. But he -- but he's pretty much lived at
7 home with us.

8 Q Did he live in a dorm or an apartment?

9 A No. No. He -- he -- he just moved out
10 with a friend of his for a while and lived with
11 him for a few months.

12 Q Okay. Perfect.

13 What are the names of your parents?

14 A My mother's name is Mary Woods, and my
15 father's name is John Kraft.

16 Q C-r-a-f-t?

17 A K-r-a-f-t.

18 Q Okay. Are they both still alive?

19 A Yes.

20 Q How old are they, approximately?

21 A Let's see. My mom is 65, and my father is
22 close to 70.

23 Q Do they reside together?

24 A No.

25 Q They're divorced?

1 A Yes.

2 Q Do either of your parents live in the
3 community?

4 A My mother does, yes.

5 Q Where does she live?

6 A She lives in Kingston.

7 Q Okay. Has she always lived in Kingston?

8 A No.

9 Q Approximately when did she move into the
10 area?

11 A She moved down to Tennessee, I think,
12 about three years ago, approximately three years
13 ago, from Michigan.

14 Q Okay. What is her address?

15 A I don't -- I don't know. She just moved
16 into a rental house, and I don't have the
17 address.

18 Q Is she close to you?

19 A She's fairly close, yeah.

20 Q About how many miles in what direction?

21 A She lives right next to the high school.

22 Q Okay. Any approximate street address?

23 A No. I think it's -- I'm thinking it's
24 Minn Street, Mint Street, something like Mint
25 Street right there by the helicopter pad.

1 Q One question that I didn't ask about your
2 three children. Other than T.J., Makayla and
3 Lillian have lived with you on Swan Pond Circle
4 since you moved in there in 2000; is that
5 correct?

6 A Correct.

7 Q Okay. And they have never been gone from
8 the home for any significant period of time?

9 A No.

10 Q Has your -- where does your father live?

11 A He lives in Michigan.

12 Q Has he visited you since you've lived
13 here?

14 A No.

15 Q He has not visited?

16 A No.

17 Q Do you keep in contact with him?

18 A I do.

19 Q By phone, e-mail, that kind of thing?

20 A We go and visit him occasionally, a couple
21 times a year maybe, and I go see him, talk to
22 him on the phone every once in a while.

23 Q Okay. Does he have difficulty traveling?

24 A Yes.

25 Q Is he ill, or --

1 A He had his leg amputated last year, so
2 it's hard for him to get around.

3 Q Was he injured, or did he have a physical
4 ailment or disease?

5 A He's got diabetes.

6 Q Okay. Is your mother in good health?

7 A Yes.

8 Q Okay. Your mother-in-law lives in close
9 proximity to you?

10 A Yes, she does.

11 Q Where does she live?

12 A She lives in the property just at the
13 bottom of the hill on the corner, which is
14 property we own, and she lives down there.

15 Q She lives in a trailer?

16 A Yes.

17 Q And it is on the adjoining parcel of land
18 to you?

19 A Yes.

20 Q Is it -- what direction would that be? To
21 the west?

22 A I don't know.

23 Q Is that parcel of land owned by just your
24 husband or by you and your husband?

25 A I believe by my husband. His grandfather

1 deeded it to him when he passed away years ago.

2 Q Was your husband also deeded the parcel of
3 land that your house presently sits on?

4 A No, we purchased it.

5 Q Your husband is named Thomas Cordell; is
6 that right?

7 A Yes.

8 Q And he's not named as a plaintiff in this
9 lawsuit; correct?

10 A Correct.

11 Q Any reason why?

12 A We just felt it would be better if I did
13 it instead of him.

14 Q How so?

15 A He -- he's a little shyder than I am, and
16 he is a little quieter.

17 Q Is he a plaintiff in some other lawsuit?

18 A No.

19 Q What does he do for a living?

20 A He retired 21 years military last year.

21 Q Is he working in any form or fashion now?

22 A No.

23 Q Okay. What's your husband's date of
24 birth?

25 A December 8, 1966.

1 Q Does he work around the home?
2 A Yes.
3 Q Odd jobs, that kind of thing?
4 A Yes.
5 Q Does he help you take care of the kids?
6 A He does.
7 Q Shuttle them back and forth to their
8 activities?
9 A Yes.
10 Q Do you have siblings?
11 A I do.
12 Q What are their names and ages?
13 A I have an older sister. Her name is
14 Jackie. Do you want last names?
15 Q Yeah.
16 A Hanlon.
17 Q Is that H-a-n-l-o-n?
18 A Uh-huh. And she is -- let's see, I've got
19 to figure it out -- 44, she's two years older
20 than me. I have a brother John Kraft, and he is
21 40. I have a sister, Jennifer Kraft, and she is
22 37, I believe. And one -- and a younger
23 brother -- another younger brother, Adam Kraft,
24 and he's, I believe, 35.
25 Q Okay. Thank you.

1 Do any of your brothers and sisters
2 live in this area?

3 A No.

4 Q How was it that you came to stay here in
5 Tennessee?

6 A My husband's from here, and so when we got
7 off military active duty we moved back here.

8 Q When he retired?

9 A No. We did four years active duty Air
10 Force.

11 Q You both did?

12 A We both did, and moved -- when he got off
13 active duty, we moved back here when we both got
14 off.

15 Q And that was primarily because he had
16 roots in this area?

17 A Yes.

18 Q And he wanted to come back?

19 A Yes.

20 Q Are you employed?

21 A I am.

22 Q Where do you work?

23 A I work at McGhee Tyson National Guard
24 Base, Tennessee National Guard.

25 Q One more time on that.

1 A McGhee Tyson National Guard Base, and
2 that's in Maryville, Tennessee.

3 Q How far is Maryville from here?

4 A About a 40-minute drive, so --

5 Q What do you do there?

6 A I work in an office. My -- my job title
7 is plans and resources manager, and I manage
8 financial fund -- funds for the unit that I'm
9 in. And I work with planning infrastructure for
10 communications inside buildings, com.base,
11 through the base and how do we get everything
12 interconnected.

13 Q When did you start?

14 A When did I start working there?

15 Q Yes.

16 A Let's see. Approximately the fall of --
17 let's see, Makayla was -- I'm terrible with
18 dates, so you'll have to give me a few minutes
19 to think about it.

20 Q Sure.

21 A Let's see, Makayla was 2. I don't know
22 exactly, but it was -- I've been out there for
23 close to 15 years. My daughter's 16. She was
24 2, so I've been out there about 14 years. I
25 don't have my exact hire date memorized in my

1 mind.

2 Q Okay. So you moved here when?

3 A We moved back here in, like, '90 -- let's
4 see, about '92, I think. And I worked in a
5 couple of civilian type jobs. My husband got
6 hired straight into the Guard full time. And
7 then we went to -- then I got hired on full time
8 shortly after that.

9 Q You hired on at the Guard --

10 A Yes. I think it was in the fall of '95,
11 is my best guess, but I'd have to go look up the
12 exact date.

13 Q Okay. So when you moved back to
14 Tennessee, you didn't automatically move to your
15 house on Swan Pond Circle?

16 A No.

17 Q Okay. Where did you move when you first
18 moved back in 1992?

19 A When we first moved back, we actually
20 lived in the property that my mother-in-law is
21 living in now, that was our -- kind of our
22 starter home coming off active duty. And like I
23 said, I -- I worked some civilian jobs.

24 Q What were those?

25 A Primarily, I worked at Johnson Controls in

1 Oak Ridge in office work.

2 Q Okay.

3 A And then I took -- after I had my daughter
4 Makayla, I took a little bit of time off, and
5 I -- when I went back to work, I was hired on by
6 Johnson Controls -- not Johnson Controls -- Fox
7 Environmental Services in Knoxville.

8 Q Fox Environmental?

9 A Yes, in the office. I worked in the
10 office work for them.

11 Q What does Fox Environmental do?

12 A Primarily they worked on underground
13 storage tanks and cleaned up the ground --
14 underground storage tanks. I don't know the
15 specifics on it because I was mostly doing
16 invoicing and things like that in the office.

17 Q Okay. During what period of time did you
18 work at Johnson Controls?

19 A I worked there from the time we moved --
20 about two years from the time we moved back
21 here.

22 Q So 1992 to 1994?

23 A Yeah. That's about right.

24 Q And then you -- when was your daughter
25 born?

1 A She was born in -- actually, she was born
2 December '93, so I took some time off after
3 that, not even a year.

4 Q That was Lillian?

5 A Makayla.

6 Q Makayla, I'm sorry.

7 A Yeah.

8 Q All right. And after you -- did you go
9 back to Johnson Controls after your time off?

10 A Just for a short period of time. And then
11 I decided to stay home and take care of my
12 daughter till she got older.

13 Q How long did you stay at home?

14 A Till she was 2.

15 Q So from December of '93?

16 A Probably about a year and a half I stayed
17 home, year to year and a half.

18 Q Okay. So you went back in the spring or
19 summer of '94?

20 A Yes, back to work, yes.

21 Q No, I guess that would be the spring or
22 summer of '95?

23 A Yeah. I don't have it -- like I said, I
24 don't have it memorized. But yeah, something
25 like that. I stayed off about a year with her

1 until she -- you know, until she was not in the
2 infant stage any longer, and then I went back to
3 work.

4 Q So you went back to work at Johnson
5 Controls for a little bit?

6 A Just for a few weeks, and then I decided
7 that I was going to stay home.

8 Q After Makayla got a little bit older, you
9 went back to work, and that was when you worked
10 at Fox Environmental?

11 A Correct.

12 Q What period of time did you work there?

13 A I only worked there maybe about a year.

14 Q So from, roughly, 1995 to 1996?

15 A Yeah. I'm not sure the dates are exactly
16 correct, but yeah.

17 Q Somewhere in that vicinity?

18 A Yeah.

19 Q And what happened then?

20 A That's when I got hired on full time at
21 the base, and I've been there ever since.

22 Q What year was that?

23 A I think it was the fall of '95, but again,
24 I'd have to look that up and see.

25 Q Okay.

1 A So I think the dates are off a little bit
2 on the time line.

3 Q Okay. Getting back to your employment.
4 You're now at the base; correct?

5 A That's correct.

6 Q And you work in the plans and resources
7 department?

8 A Correct.

9 Q It's plans and resources --

10 A I actually work for the base
11 communications squadron flight for the 134th air
12 filling wing. And our -- our -- our flight
13 manages the communications for the base, which
14 is all the computers, all the connectivity
15 issues, we manage servers, you know, everything
16 dealing with com.

17 Q Time out.

18 A Okay.

19 Q Okay. Sorry, I missed just a little bit.
20 We had -- you work for the base communications
21 squadron, and you work -- you're in charge of
22 computers at the base?

23 A Well, our -- our unit, our -- our -- is to
24 keep communications up and running. We do com
25 work. We go in and set up computers. We make

1 sure our users can get on their machines to do
2 what they need to on their computers.

3 So the folks at work, you know,
4 under me, we all kind of work together to make
5 sure our base com is up and running.

6 Q Do you have an expertise in computers?

7 A Somewhat. But, I mean, that's my career
8 field is computers and work in computers.

9 Q Okay. Are these the big computer systems
10 that you work on or you work with laptops?

11 A We have both.

12 Q Okay. You also mentioned that you work
13 with finance?

14 A I do. I'm what they call a resource
15 advisor for several of the units on base.

16 Q What does that mean?

17 A I work with setting up budgets and keeping
18 track of funds for the commander on the mission
19 support group which entails several units on
20 base, and I brief her and give her financial
21 status throughout the year, make sure funds are
22 utilized properly and all the documentation's in
23 place.

24 Q Is this for the whole base?

25 A Not the whole base, no. I work with

1 financial management office on base for the
2 group that I'm assigned, which is several units.

3 Q So you are entrusted with keeping the
4 finances straight for several units on the base?

5 A Yes.

6 Q Okay. And who do you report to?

7 A I -- my immediate supervisor is Lee
8 Hamner, Captain Lee Hamner.

9 Q H-a-m-n-e-r?

10 A H-a-m-n-e-r.

11 Q What rank do you hold?

12 A I'm a chief master sergeant.

13 Q When you began working at the base, did
14 you come in as a chief master sergeant?

15 A No. I came in as a staff sergeant.

16 Q When were you promoted?

17 A I don't have that -- I don't have that
18 information. I -- I'd have to look at my
19 promotion orders.

20 Q A long time ago?

21 A I've been a chief master sergeant about
22 two years, so I've progressively worked up to
23 that.

24 Q So there were inter -- inter-steps between
25 staff sergeant and chief master sergeant?

1 A Yes. Absolutely.

2 Q When you talk about being in charge of
3 financial matters, that's not investing funds --

4 A No.

5 Q -- or buying stocks, that kind of thing?

6 A No.

7 Q It's keeping track of the finances of the
8 base?

9 A Operating and maintenance budgets that are
10 sent down through the -- through the system in
11 place, making sure that those funds are utilized
12 appropriately.

13 MR. DAVIS: Does the Army or Air
14 Force invest money in stocks? I didn't know
15 that.

16 MR. SHERK: I don't know. Maybe
17 Ms. Cordell knows.

18 Q So from 1995, I believe you said, you've
19 worked at the base?

20 A Yes.

21 Q Correct?

22 What jobs did you have -- what job
23 did you have before you had your current
24 position there?

25 A When I first got hired on, I was

1 information manager, which is office --
2 administrative work, managing -- helping
3 individuals manage information, maintain
4 records, maintain files in their offices,
5 electronic and paper. I managed our mailroom
6 facility, and that's when I started out as a
7 staff sergeant.

8 After that, I moved into the
9 actual -- I guess it would be the head person in
10 that office.

11 Q Head person in the --

12 A Information management office, yeah. I
13 was like the -- the lead person in that office
14 with two other individuals. And I --

15 Q After -- what approximate year was that?

16 A I don't know. I'd have to -- again, I'd
17 have to look in my paperwork and see, but --

18 Q Okay.

19 A It wasn't long. It was maybe a year and a
20 half after getting hired on.

21 Q Okay.

22 A Maybe two years. I'd have to look.

23 Q After --

24 A A year and a half to two years I was
25 promoted to that new -- that other position in

1 the office and was kind of the lead person. And
2 my duties changed a little bit then too.

3 Q What promotion did you get after being the
4 head person in the information management
5 office?

6 A I was a tech sergeant then.

7 Q Okay. And what job did you do?

8 A When I was -- well, when I was a tech
9 sergeant I got hired, and then when I got hired
10 into the head information management job, I just
11 took on more responsibility and dealt with more
12 individuals on base in that job. And I got
13 promoted to master sergeant when I got in that
14 job.

15 And then after I -- and I sat in
16 that master sergeant job for several years and
17 got hired -- and then I moved to another job and
18 got hired in as a senior master sergeant of
19 plans and implementation. And that was a
20 complete change in career field. It took me
21 away from just administrative functions and put
22 me more into managing resources, people, and
23 working with more infrastructure type, you know,
24 projects, working on projects with the civil
25 engineering squadron planning com.

1 Q So approximately, as I understand it, in
2 1998, you received a promotion and you moved
3 away from information management into a
4 completely new area?

5 A Right.

6 Q You received a promotion to senior master
7 sergeant?

8 A Yes.

9 Q And you began working in the broad plans
10 and implementation area?

11 A Yes.

12 Q Okay. How long did you hold that
13 position?

14 A The time -- your time line's way off. I'd
15 have to go look at my documents and bring -- so
16 I can do that if I need to, get the more
17 specifics on when I moved. I have that at home.

18 Q That would be great to get just a little
19 bit more --

20 A Because I sat in the plant and
21 implementation job for about two years, two and
22 a half years, maybe, and then I was selected for
23 the plans and resources chief job that I'm in
24 now. And I've been in that job a little over
25 two years.

1 So the time line's way off. But
2 that's kind of the gist of getting to where I am
3 at now.

4 Q Okay. When were you promoted to -- to
5 chief master sergeant?

6 A It's been about two years.

7 Q How long have you been doing what is
8 essentially the job you're doing now?

9 A About two years.

10 Q All right. Let's look back in time.

11 Prior to when you moved before
12 moving to Tennessee, where did you work and live
13 then?

14 A Where did I work? I was in the active
15 duty Air Force.

16 Q Where were you stationed?

17 A My first duty assignment was in Greece. I
18 spent 18 months there.

19 Q What year was that?

20 A '85.

21 Q Okay. So you were in Greece from '85 to
22 '87?

23 A Yeah, give or take some months.

24 Q What was your rank?

25 A I started out as an airman basic, and I

1 guess when I left Greece, I was an A-1 C.

2 Q What does A-1 C mean?

3 A Two stripes.

4 Q Two stripes okay. Where in Greece?

5 A I was stationed in Crete, directly on air

6 station. It's now closed.

7 Q What was the name of that air station?

8 A Iraklion Air Base.

9 Q What jobs and responsibilities did you

10 have between 1985 and '87, when you were in

11 Greece?

12 A I worked in an office and same thing I did

13 was administrative support.

14 Q Okay.

15 A Publication forms, filing, maintaining

16 libraries, things like that.

17 Q This is obviously with the Air Force;

18 correct?

19 A Yes.

20 Q Where did you move next?

21 A I was transferred to Great Falls, Montana.

22 Q All right.

23 A And I lived there about two years.

24 Q So roughly 1987 to '89?

25 A Yeah.

1 Q What rank did you have then in the Air
2 Force?

3 A When I got out I was a senior airman,
4 which is a three-striper.

5 Q What jobs did you have during that period
6 of time of '87 through '89?

7 A I worked for a refueling wing that was
8 being built up there, and I worked again office
9 work supporting the individuals' computer work,
10 things like that.

11 Q Right. And did you leave the Air Force in
12 '89?

13 A I did. I got out.

14 Q Honorable discharge?

15 A Yes.

16 Q And where did you go from there?

17 A My husband was in Korea at that time for a
18 year, so I came back here and stayed with his
19 parents, and I was -- had my son during that
20 time.

21 Q Okay. And that's T.J. that you had?

22 A Yes.

23 Q What year was that?

24 A He was born in July of 1990.

25 Q Excuse me. What did you say, July 1990?

1 A Yes.

2 Q Okay. So your husband was not around for
3 the birth of his first child?

4 A He came home for it.

5 Q Then where did you move?

6 A My husband came back from Korea, and he
7 was stationed in Myrtle Beach, so we lived there
8 for a little over a year.

9 Q Myrtle Beach, Virginia?

10 A No.

11 Q North Carolina?

12 MR. DAVIS: South Carolina.

13 THE WITNESS: South Carolina, yeah.
14 Myrtle Beach, South Carolina.

15 BY MR. SHERK:

16 Q How long were you there?

17 A About a year and a half.

18 Q Were you working at that time?

19 A I did. I worked for the Armed Forces Club
20 on base in the office.

21 Q Is this civilian?

22 A Yes.

23 Q Okay. What year, approximately, did you
24 live in Myrtle Beach, South Carolina?

25 A Let's see. He came back -- T.J. was born

1 in July. He had come back from Korea in
2 October, I think, or November, and we moved to
3 Myrtle Beach in December. I think we moved
4 there around November, December 1990, and then
5 we moved -- and then I moved, a year later, back
6 to Tennessee while he finished up his last few
7 months, and got us a place to live. And that's
8 when we moved on that property at the bottom of
9 the hill.

10 Q Did you live in the trailer?

11 A We did.

12 Q That was in 1991?

13 A Yes.

14 Q And by that time you just had one child?

15 A Yes.

16 Q So it was just T.J. and your husband and
17 you?

18 A Yes.

19 Q And when did he join you?

20 A Just a few months after that.

21 Q Was that early 1991?

22 A I can't remember.

23 Q At some point that year.

24 Prior to joining the Air Force in
25 1985, what did you do?

1 A I was in high school.

2 Q So you joined the Air Force right out of
3 high school?

4 A Pretty much, yeah.

5 Q When did you graduate from high school?

6 A I graduated from -- I guess it would have
7 been May of '85.

8 Q Okay. And when did you join the Air
9 Force?

10 A That fall. Actually, probably winter,
11 because I was there during the -- I was there
12 during my birthday. I remember I was in basic
13 training.

14 Q Where did you meet your husband?

15 A In Montana.

16 Q In the posting that you had in Montana?

17 A Yes.

18 Q Looking back over the course of your
19 entire employment, Ms. Cordell, have you ever
20 been injured on the job?

21 A No.

22 Q Have you ever made a Workers' Compensation
23 claim?

24 A No.

25 Q Have you ever missed a significant amount

1 of time due to illness?

2 A No.

3 Q Do you consider yourself to be a healthy
4 person?

5 A Yes.

6 Q At any point in the course of your
7 employment, have you been asked to handle
8 dangerous chemicals of any sort?

9 A No.

10 Q When you worked on air bases, were you
11 ever involved with weaponry or munitions?

12 A No.

13 Q How about munitions?

14 A No.

15 Q How about petroleum fuels, oils, that sort
16 of thing?

17 A No.

18 Q Had you ever worked with solvents as a
19 part of your job?

20 A No.

21 Q How about pesticides, herbicides, or other
22 chemicals like that?

23 A No.

24 Q Did you ever develop a condition or
25 illness during the course of your employment

1 that you attributed to your employment that
2 caused you to go see a doctor?

3 A No.

4 Q During your career with the Air Force,
5 have you essentially always had an office job?

6 A Yes.

7 Q You talked a little bit earlier about your
8 computer training. How did you get your
9 training?

10 A Just on the job, took some classes, self
11 learned.

12 Q It wasn't a high school course or anything
13 like that?

14 A No.

15 Q Did you go to college?

16 A Some, yes. Most of my training is through
17 technical schools that the Air Force has sent me
18 to and additional training that I've been able
19 to seek out, some -- some classes and different
20 things. But mostly self taught.

21 Q Okay. Where did you to college?

22 A Primarily I went when I was on active
23 duty, but they have what's called the Community
24 College of the Air Force, which kind of compiles
25 all of your training and equates it to a degree.

1 Q Did you attain a degree, a college degree?

2 A No, I have not.

3 Q How many years worth of schooling did you
4 have while in the Air Force?

5 A Right now my training equals almost an
6 Associate's degree minus a few classes.

7 Q Besides your computer training that you
8 picked up through, you know, experience in the
9 Air Force and some tech courses that you took,
10 have you gained other areas of expertise as
11 well?

12 A No.

13 Q Okay.

14 A Management things you learn just being on
15 the job.

16 Q That's what I was wondering. Have you
17 taken any courses in management?

18 A Just like a senior NCO Academy, NCO
19 Academy, airman leadership schools, all the
20 military required courses I've taken.

21 Q So you've had training in dealing with
22 people?

23 A Yes.

24 Q And how to be their boss and instruct
25 them?

1 A I am a supervisor, yes.

2 Q Okay. Have you ever worked for TVA?

3 A No.

4 Q Has your husband ever worked for TVA?

5 A No.

6 Q Have either of you ever been independent
7 contractors for TVA?

8 A No.

9 Q In any of your places of employment, have
10 you been required to wear protective gear of any
11 kind?

12 A No.

13 Q During the course of your years of
14 employment, have you ever felt that you were
15 exposed to hazardous chemicals of any sort?

16 A No.

17 Q During your employment, do you ever
18 believe that you have been exposed to hazardous
19 substances like beryllium or --

20 A No.

21 Q -- uranium, anything like that?

22 A No.

23 Q And again, you had no contact with
24 weapons, systems weaponry, napalm --

25 A No.

1 Q -- explosives, or anything like that --

2 A No. Absolutely not.

3 Q -- while you were --

4 A No.

5 Q Once again, we'll just have to be careful
6 that we don't trip over each other.

7 MR. DAVIS: Well, you're asking
8 compound questions, so she's trying to answer
9 each one separately.

10 But I'll ask her to wait.

11 MR. SHERK: Thank you.

12 Q Have you been a party to a lawsuit prior
13 to this?

14 A No.

15 Q And I believe you said you never filed a
16 Workmen's Compensation claim of any kind?

17 A No, sir.

18 Q Have you ever filed for bankruptcy?

19 A No, sir.

20 Q Have you ever been arrested?

21 A No, sir.

22 Q Ever convicted of a crime?

23 A No, sir.

24 Q Let's change gears again and talk a little
25 bit about --

1 MR. DAVIS: Is this a good time for a
2 break? It's been about an hour.

3 MR. SHERK: Sure.

4 Are you doing okay?

5 THE WITNESS: Yes, sir.

6 THE VIDEOGRAPHER: This marks the end
7 of tape 1. Going off the record. Time is
8 10:02.

9 (Recess.)

10 THE VIDEOGRAPHER: On the record.
11 This marks the beginning of tape No. 2. Time is
12 10:13.

13 BY MR. SHERK:

14 Q Ms. Cordell, we're back on the record
15 after a short break.

16 A couple of things, just kind of as
17 a housekeeping matter. During the lunch break
18 what I'll try to do is line out your high school
19 to present, you know, education and job
20 responsibilities and postings and ranks and that
21 kind of thing.

22 Okay?

23 A Okay.

24 Q And if you would think about it too, maybe
25 after lunch I'll take you through my chronology

1 and we can just kind of make sure it's as close
2 as we can get to an accurate point.

3 All right?

4 A Okay.

5 Q All right. And just to revisit very
6 quickly, the spill in Kingston occurred in
7 December of 19 -- or December 2008; correct?

8 A Correct.

9 Q You retained your counsel six months
10 thereafter you said?

11 A Yes.

12 Q Okay. And that was Mr. Davis and his
13 colleague?

14 A Yes.

15 Q You were named in this lawsuit called
16 Chesney, was it a couple months ago?

17 MR. DAVIS: Are you asking her that
18 question, or would you like to refer to the
19 Complaint?

20 MR. SHERK: It's July 13 of 2010.

21 MR. DAVIS: That's when it was
22 allowed to be filed, if you'll recall, and it --
23 it was proposed much before that time.

24 MR. SHERK: Okay. So let's say May?

25 MR. DAVIS: Actually, it was in

1 February, wasn't it, that we first filed?

2 MR. SHOCKLEY: March, I believe.

3 MR. DAVIS: March. In March we first
4 filed the proposed consolidated complaint.

5 BY MR. SHERK:

6 Q Okay. So from when you signed up as a
7 client of Mr. Davis's until the Chesney
8 complaint was filed or came to light in March of
9 2010, what sorts of things were you doing?

10 A Can you expound on that? What do you
11 mean, what sorts of things?

12 Q Sure. Did you -- did you have any
13 responsibilities or activities that you were
14 undertaking as a plaintiff or a client of
15 Mr. Davis in potential litigation?

16 A No.

17 Q Did you understand during that time that
18 you were to preserve documents and e-mails and
19 such?

20 A Yes.

21 Q Okay. And did you preserve such documents
22 and e-mails?

23 A I have a file, yes.

24 Q Did you produce all those materials to
25 your counsel?

1 A I did.

2 Q Do you believe during that span of time
3 from when you retained Mr. Davis and his
4 colleagues to when the Chesney complaint came to
5 light, that any responsive information was
6 deleted or lost?

7 A I don't believe so.

8 Q Has anyone explained the preservation
9 order that is in effect in this case to you?

10 A No.

11 Q What is your understanding in terms of the
12 preservation of materials?

13 A Documentation needs to be preserved and
14 saved to document what's happened so that we
15 have an accurate picture of everything that's
16 going on.

17 Q Okay. Let's turn our attention to this
18 lawsuit. Can you tell me how you got involved
19 in this lawsuit as a class representative?

20 A I -- of course, after the ash spill
21 happened, we just kind of watched the news
22 releases, and things that we were told to do was
23 to go and file our claims. And so we were just
24 like everybody else in the community, we didn't
25 know what was going on, we were -- we were

1 getting pieces of information, but nothing
2 was -- in my opinion, was clear or exact, it was
3 just pieces of information.

4 So we just kind of went through the
5 motions like everybody else. We filed our
6 claim, our concerns, and we waited.

7 Q Okay. Who told you to file claims?

8 A When -- I don't know exactly who told us,
9 but it was on -- you know, on the news: Go --
10 go to the TVA center, file your claim with the
11 TVA outreach center in Kingston, and it was
12 posted on our website, all that.

13 Q Okay. And did -- you saw on the news and
14 received some instructions to file the claims
15 with TVA?

16 A Yes.

17 Q Did you also look on the TVA website about
18 filing that kind of claim?

19 A I think so.

20 Q And did you file a claim?

21 A My husband did initially because I was
22 working.

23 Q Okay. What claim did he file?

24 A I believe initially he had property
25 concerns of our property values and health

1 concerns.

2 Q Was this a written claim form?

3 A I believe the -- whatever the little form
4 is they had everybody filling out was filed.

5 Q Was it a short form?

6 A I don't -- he filled it out. I don't
7 remember.

8 Q Do you have a copy of that?

9 A I don't believe they gave copies out.

10 Q Okay. How long after the spill did your
11 husband fill out and file his claim form?

12 A I don't know.

13 Q Within the first three months?

14 A Yes.

15 Q Let's talk a little bit about the
16 information you got within the first three
17 months after the spill.

18 Okay?

19 A Okay.

20 Q You indicated that you were getting
21 information but it was in pieces; is that right?

22 A Yes.

23 Q What were the sources of information you
24 were receiving?

25 A Well, there was things that were being

1 released at some of the meetings they were
2 having. There was information released through
3 some, I guess, press releases through TVA. They
4 had appointed individuals or -- to go out and
5 talk to you into your -- in the community.

6 Q I'm sorry, I missed that last one.

7 A They had individuals that were assigned to
8 go out and talk to us at our homes in the
9 community.

10 Q Were those individuals that were assigned
11 to talk to the community from various agencies
12 and organizations?

13 A I believe they were TVA employees.

14 Q Okay. At that time did you hear or speak
15 with anybody from the EPA?

16 A I don't believe so.

17 Q How about from TDEC?

18 A I don't believe so, no.

19 Q How about from the Tennessee Department of
20 Health?

21 A I believe that's who came in and did
22 the -- did some health assessment questions with
23 us.

24 Q Sorry, I don't want to get ahead of you
25 here.

1 So you were getting information from
2 various sources within that first three months?

3 A Yes.

4 Q And within that first three months you
5 filed a claim --

6 A Yes.

7 Q -- with TVA?

8 A Yes.

9 Q What happened next?

10 A Nothing.

11 Q Did you conduct any follow-up inquiries
12 with TVA or other agencies?

13 A I did. We would call and check on our
14 claim, not every day but periodically, and
15 didn't really get a whole lot of information
16 except they would defer us to the company. I
17 don't remember the name of the company that they
18 had hired to process all the claims.

19 Q So you followed up with that company?

20 A I did.

21 Q When your husband got the form to fill
22 out, do you know who provided him that form?

23 A It was at the outreach center.

24 Q Okay. You mentioned that your husband had
25 health concerns and concerns about property

1 valuation?

2 A Yes.

3 Q Okay. What kinds of things were you
4 seeking in making your claim?

5 A We weren't seeking anything at that point.
6 We just -- we really were concerned about our
7 health and our property values and what -- you
8 know, what's -- what are you going to do, what's
9 the plan. And we weren't getting any answers.

10 Q So at that time you were not seeking
11 money?

12 A No.

13 Q Okay. Were you seeking that anyone do
14 anything to your personal property?

15 A No. We just wanted -- we were just trying
16 to get good information.

17 Q All right. How long did this period of
18 time last that you had submitted information and
19 a claim and had gotten some information back,
20 but nothing was happening?

21 MR. DAVIS: Object to the form of
22 the question. I don't believe that's exactly
23 how she portrayed it.

24 But you may answer after listening
25 to the question carefully.

1 THE WITNESS: How long did -- did you
2 say how long -- ask the question again, please.

3 MR. SHERK: Sure.

4 Q And I've tried to be accurate. Let me try
5 again.

6 You've described a period of time
7 where your husband submitted a claim and had
8 gotten some piecemeal information, as you've
9 said, but nothing much was happening; correct?

10 A Correct.

11 Q What -- what happened next? What was the
12 next significant event?

13 A We received a letter from the company
14 saying that our claim was invalid.

15 Q This was the company that you understand
16 that TVA hired to process claims?

17 A Yes.

18 Q Okay. I guess what I don't understand is
19 if you wanted information but they said you
20 didn't have a claim, what was the claim about?

21 A The initial claim when my husband went in
22 was just to get information and find out what --
23 you know, what the plan was.

24 Q Right.

25 A So that we could start making some good

1 decisions about our -- you know, what our --
2 what we were going to do. We did not get good
3 information or we didn't feel like we were
4 receiving accurate information that we could
5 make those decisions.

6 So we called several times, talked
7 to the outreach center, kept getting deferred to
8 the different offices or really no help at all.
9 One conversation they said all that they had on
10 file was my -- that we were concerned about our
11 property values, which is what he initially went
12 in for. But when I talked -- when I talked to
13 them that day, and I don't remember what day it
14 was, I said, well, I'll come over there and make
15 sure you have our claim properly because -- and
16 our claim at that point was, you know, we want
17 you to buy our house so we can get out of here.

18 That was our -- that was a claim,
19 you know, that we wanted them to at least come
20 and talk to us and give us that -- that option,
21 if it -- and of course, then I filled out a new
22 claim form to make sure because somehow
23 communication between my husband and them did
24 not come through clearly is what I think
25 happened.

1 That's just speculation, but I
2 wasn't there. So I -- we made sure that it was
3 clear, listen, you know, we're very close to
4 this stuff, we're very concerned about it, and
5 we don't want -- we want you all to look at us
6 as well as some of the other folks in the area
7 that you're looking at.

8 Q During that period of time, were people
9 having their homes purchased by TVA?

10 A I think so, yes.

11 Q Okay. And as I understand it, when you
12 became involved, you made it clear that you
13 wished to be considered for a buyout as well?

14 A Yes.

15 Q Okay. Approximately what period of time
16 was that?

17 A I don't remember.

18 Q Summer of 2009?

19 A It was probably spring because I hired
20 counsel when we got the letter in the summer.

21 Q Okay. So receiving the -- the "no" letter
22 or the denial letter was what triggered you to
23 hire counsel?

24 A Absolutely.

25 Q When you received the letter denying your

1 claim to be considered for the buyout program,
2 did you go back to TVA and give it another shot
3 or the company that was administering claims for
4 TVA?

5 A No.

6 Q How did you go about choosing your
7 counsel?

8 A Well, I never hired a lawyer before, so I
9 didn't -- you know, so I just kind of went and
10 Googled some of the different firms and really I
11 just picked one. And that young lady,
12 Ms. Verneti, came out to my home and sat down
13 and talked with me, and I just felt like they
14 would represent us appropriately.

15 Q When you talk about some of the different
16 firms, how -- was there a -- was there a
17 grouping or a selection --

18 A No.

19 Q -- of homes that you were aware of?

20 A No. No. I don't remember -- I don't
21 remember exactly how I got --

22 Q Did the Google search that you performed
23 key into law firms that were involving
24 themselves in the TVA litigation?

25 A You know, I had to -- I had to dig a

1 little bit to find different law firms that
2 were -- that were getting involved.

3 Q Did you attend any presentations given by
4 law firms for folks in the area after the spill
5 about potential legal representation?

6 A I -- I did. I went to a couple of the
7 meetings they held, just for fact finding,
8 getting information, hearing what some of the
9 other individuals in the community were feeling
10 and thinking.

11 Q These were meetings held by law firms?

12 A I don't -- I don't know who -- who
13 actually held the meeting.

14 Q Okay. But law firms --

15 A Were there, yes.

16 Q And you were -- did those meetings in any
17 way give rise to the selection you ultimately
18 made to hire Mr. Davis and his colleagues?

19 A No.

20 Q From those meetings, you just essentially
21 got basic information about how people were
22 thinking and feeling about the incident?

23 A Yes.

24 Q As I understand it then, your selection of
25 a law firm to represent you in this matter was

1 based upon your Google search and then a
2 follow-up meeting with Ms. Vernetti?

3 A Yes.

4 Q Anything else go into the decision-making
5 process?

6 A No.

7 Q Since this actual case was officially
8 filed in July of 2010, this year, how often have
9 you kept up with your counsel?

10 A Probably talk to Brantley about every six
11 weeks, maybe. I call her just to get an update
12 pretty regularly. And I don't want to overwhelm
13 her with calling her every day, but I do, if --
14 if I have a question or something comes up, I
15 will give her a call and she will just kind of
16 fill me in on where we're at.

17 Q Okay. Are you provided copies of the
18 legal pleadings that are filed in this case?

19 A Have I been provided copies?

20 Q Uh-huh.

21 A Yes.

22 Q And do you review those as you receive
23 them?

24 A Yes.

25 Q Do you keep track of the progress of the

1 litigation by looking at Internet websites or
2 the news, that kind of thing?

3 A Yes.

4 Q What sorts of sources do you look for for
5 news about the lawsuit since the lawsuit has
6 been filed?

7 A I really just look for news articles,
8 newspaper articles. Like I said earlier, the
9 News Sentinel puts articles out. WATE covers
10 different things that's going on. There's not a
11 lot out there, so if something big comes out,
12 then I'll go search. You know, the local
13 newspaper puts information out. I try to watch
14 for things in there.

15 Q At some point in time you received the
16 information that Ms. Verneti was going to go to
17 a different firm --

18 A Yes.

19 Q -- and separate from Mr. Davis; correct?

20 A Correct.

21 Q How did you make your decision as to who
22 you would stay with?

23 A I just -- I just -- just really wasn't --
24 I just decided I was going to stay with where I
25 was at. Better to stay with where you're at

1 than to switch.

2 Q Did you ever consider going with
3 Ms. Verneti and pursuing an individual lawsuit
4 rather than being involved in a class action?

5 A No.

6 Q Have you communicated with the other class
7 representatives who are involved in this
8 lawsuit?

9 A No.

10 Q Do you know who they are?

11 A I know they're listed on the claim, but I
12 don't know them.

13 Q Since filing this lawsuit, have you
14 communicated with anybody besides your lawyers
15 about the lawsuit?

16 A No.

17 Q Your husband?

18 A Well, my husband.

19 Q Not friends and neighbors?

20 A No.

21 Q Have you encouraged anybody else to become
22 involved in this lawsuit?

23 A No.

24 Q Okay. Did you ever meet with Erin
25 Brockovich or attend a presentation given by

1 her?

2 A I attended the one they had at Roane
3 State, that very first one, again just for fact
4 finding, collecting information.

5 Q Did you receive any materials from that
6 presentation that you attended?

7 A Just the general packet they were handing
8 out.

9 Q Do you still have that packet?

10 A I believe I do.

11 MR. SHERK: Counsel, we'd request a
12 copy of that. Maybe we could talk about that at
13 a break.

14 MR. DAVIS: That's fine. I'm not
15 even familiar with that.

16 BY MR. SHERK:

17 Q Do you recall when the Erin Brockovich
18 presentation took place?

19 A I don't recall.

20 Q Was it just one presentation that you
21 attended that she gave?

22 A Yes.

23 Q Were there lawyers with her?

24 A I -- I don't know.

25 Q Have any of your family members encouraged

1 you to become an active participant in this
2 lawsuit?

3 A No.

4 Q Father, mother, sisters, brothers?

5 A No.

6 Q Okay. Has anyone tried to discourage your
7 participation as a class representative in this
8 lawsuit?

9 A No.

10 Q No one's advised you to stand --

11 MR. DAVIS: Let me just object to the
12 question to the extent that it would call for
13 any privileged communications between you and
14 your husband. I'm not saying it does, but
15 that's a valid objection in Tennessee.

16 BY MR. SHERK:

17 Q You can answer.

18 MR. DAVIS: Except for with your
19 husband.

20 THE WITNESS: Okay. Repeat the
21 question.

22 BY MR. SHERK:

23 Q Sure. Has anyone discouraged you from
24 participating in this lawsuit as a class
25 representative?

1 A No.

2 Q You are aware that this is a proposed
3 class action lawsuit that you're involved with?

4 A Yes.

5 Q And that you're serving as a class
6 representative?

7 A Yes.

8 Q What does being a class representative
9 mean to you?

10 A It means that I'm -- I'm stepping up to
11 represent a group of individuals that have some
12 of the same issues that I have and that my
13 family has.

14 Q How do you view your responsibilities and
15 duties as a class representative?

16 A My responsibilities and duties are just
17 there's going to be a little bit more required
18 of me in order to represent them properly and
19 that I'm -- I'm there -- you know, I have to be
20 a little more involved than they would be to
21 represent them.

22 Q Have you done anything in particular to
23 prepare yourself for your role as a class
24 representative?

25 A I mean, just like I said earlier, reading

1 the newspaper articles, talking to my counsel,
2 trying to stay abreast, reading the claim, and
3 trying to decipher that information the best
4 that I can and asking questions.

5 Q Have you investigated properties in the
6 area, other than yours, in your role as a class
7 representative?

8 A No.

9 Q Have you spoken with any experts in this
10 case as a role -- in your role as a class
11 representative?

12 A No.

13 Q Have you had discussions with people who
14 would be embraced within the class definition?

15 A What --

16 MR. DAVIS: I object to the form of
17 the question.

18 You may answer if you understand.

19 THE WITNESS: I don't understand what
20 you're asking.

21 BY MR. SHERK:

22 Q Have you discussed this lawsuit with
23 people who may be within the class that you're
24 seeking to represent?

25 A No.

1 Q Have you made a determination that those
2 people who would fall within the classes that
3 you seek to represent have the same sorts of
4 claims that you have?

5 A Yes.

6 Q How have you undertaken that
7 investigation?

8 A If they live in the general area that I
9 live in, they're experiencing the same things
10 that we're experiencing.

11 Q What sorts of things are you referring to?

12 A Just the -- just the mess, the -- the ash,
13 the traffic, the extra workers, the tore up
14 roads, the -- all the things that has happened
15 since that spill.

16 (Marked Exhibit 1.)

17 BY MR. SHERK:

18 Q Ms. Cordell, you've been handed Deposition
19 Exhibit No. 1, and I'll represent to you that
20 this is a copy of the consolidated class action
21 complaint that has been filed in this case.

22 Does this document look familiar to
23 you?

24 A Yes.

25 Q Have you reviewed this document?

1 A Yes.

2 Q Let's take a look at the plaintiffs in
3 this case. They're listed on the upper
4 right-hand side of page 1.

5 Do you see them?

6 A Yes.

7 Q Okay. Do you know any of these
8 individuals?

9 A No.

10 Q You've never met with any of them?

11 A No, not that I'm aware.

12 Q Do you know where they reside?

13 A I mean, their addresses are in here, but I
14 don't know -- I haven't physically gone to their
15 addresses, no.

16 Q You've never spoken with them about their
17 experiences with the ash?

18 A No.

19 Q Nor have you spoken with them about their
20 experiences in terms of clean-up efforts, trucks
21 and so forth?

22 A No.

23 Q Okay. You haven't spoken with them
24 regarding dust and that kind of thing?

25 A No.

1 Q Are you familiar with the classes that are
2 being proposed in this case?

3 A Yes.

4 Q What are they?

5 A Well, the first class is what I call like
6 a high-impact area, individuals that live
7 close -- closer to the spill and that are in a
8 region -- it says it in here. It describes it.

9 Q Feel free to look on page 27 of Exhibit 1.

10 A Class 1 are the persons owning property
11 within the boundaries on the map. And then
12 class 2 are people down the river, down to the
13 dam. And then the resident class for medical
14 monitoring is those also in the map area for
15 medical monitoring.

16 Q Those that would be in the class 1 area?

17 A Yes.

18 Q Did you have any input in drawing the
19 boundaries of class 1?

20 A No.

21 Q Did you have any input in considering how
22 class 2 would be framed?

23 A No.

24 (Marked Exhibit 2.)

25 BY MR. SHERK:

1 Q Ms. Cordell, you've been handed Deposition
2 Exhibit No. 2, and I'll represent to you that
3 this is a map of the Kingston area with the
4 class 1 boundaries superimposed on it.

5 MR. DAVIS: I'm going to object to
6 the extent that this is a map prepared by your
7 client, I assume, and is not the same map that
8 is attached to the class complaint. And we
9 haven't verified any of the boundaries on your
10 Exhibit 2 as compared to the boundaries in the
11 class complaint.

12 BY MR. SHERK:

13 Q Ms. Cordell --

14 MR. DAVIS: Excuse me, John. May I
15 have a copy of that?

16 MR. SHERK: Oh, I'm sorry. Yeah.

17 (Marked Exhibit 3.)

18 BY MR. SHERK:

19 Q Before we get to Exhibit 3, which has just
20 been marked, let me ask you about Exhibit 2.
21 Does this map look familiar to you?

22 A Yes.

23 Q Does it look like an accurate map of the
24 Kingston area?

25 A Yes.

1 Q Does the property -- the class 1 property
2 damage class boundary that has been superimposed
3 on this map look fairly accurate to you?

4 A I can't answer that question. I mean, it
5 was -- the boundaries were determined by
6 specialists that know more than I know about the
7 ash, and so I'm not qualified to make that -- if
8 it's fair and accurate, I'm not qualified to
9 make that determination.

10 Q I guess the question is does it look
11 essentially similar to the map that was attached
12 to the consolidated class action complaint?

13 MR. DAVIS: Object to the question.

14 THE WITNESS: I mean it's not the
15 same map, no.

16 BY MR. SHERK:

17 Q Okay. Can you locate your residence. Or
18 the approximate location of your residence on
19 Exhibit 2?

20 A Yes.

21 Q Okay. If you would, can you mark that for
22 me.

23 A Okay.

24 Q And can you put "Cordell house," how about
25 that?

1 A (Witness complies.)

2 Q You indicated that specialists had drawn
3 or had been involved in the crafting of this
4 class boundary?

5 A I would assume that, yes.

6 Q Do you know that for sure?

7 A No, I do not.

8 Q Okay. Let's look at Exhibit 3. Can you
9 draw for me, Ms. Cordell, the class boundary on
10 Exhibit 3?

11 A Can I draw for you on this map --

12 Q Yeah.

13 A -- the class boundary?

14 Q Yeah.

15 MR. DAVIS: I'm going to object to
16 the question. I -- I don't believe that it's
17 proper to have the witness create an exhibit for
18 you during the deposition.

19 THE WITNESS: I mean, I don't have it
20 memorized in my brain to draw it out, no. But I
21 have a copy of it. It shows the general area.

22 MR. DAVIS: Are you asking her to
23 take Exhibit 2 and draw it on Exhibit 3? Is
24 that what you're asking her to do?

25 MR. SHERK: I'm wondering if she can

1 just draw the boundary of the class definition
2 on Exhibit 3, irrespective of what's on
3 Exhibit 2.

4 MR. DAVIS: You're not required to do
5 that if you can't.

6 THE WITNESS: No, I won't. I'm not
7 going to do that.

8 BY MR. SHERK:

9 Q Your answer is you can't do that?

10 A Right. No. I said I'm not going to do
11 that.

12 Q You're refusing to do that?

13 A Yes.

14 Q Why is that?

15 A Because I don't feel that I'm qualified
16 to -- to be drawing schematics on a map.

17 Q Okay. Can you find your house on this
18 map, Exhibit 3?

19 A I can. Let's see. Would you like me to
20 write my --

21 Q Sure.

22 A -- "Cordell House" on there?

23 Q Does this map look familiar to you?

24 A Yeah. It's a map of my community.

25 Q Does it look like a fair and accurate map

1 of your community?

2 A I assume so, yes.

3 Q Ms. Cordell, did you ever consider being a
4 plaintiff in an individual lawsuit rather than a
5 class representative in a class action?

6 A No.

7 Q Did you ever consider that you might get a
8 speedier resolution as a plaintiff in an
9 individual case than you would as a class
10 representative in a class action?

11 MR. DAVIS: Object to the question to
12 the extent that it calls for any communications
13 between you or your attorney.

14 THE WITNESS: Ask -- could you ask
15 the question again, please?

16 BY MR. SHERK:

17 Q Yes. Did you ever consider that you might
18 get a speedier resolution of your claim as a
19 plaintiff in an -- in an individual case than
20 you would as a class representative in a class
21 action?

22 A I don't think so, no.

23 Q Okay. Did you ever consider that you
24 could pursue claims -- additional claims that
25 you're not pursuing here in an individual case?

1 A I'm not familiar with the proceedings for
2 an individual case because I've never been
3 involved in that, so I can't -- I can't really
4 answer that.

5 Q Okay. You are not pursuing a claim for
6 emotional distress in this case; correct?

7 A Absolutely not.

8 Q And you are not pursuing claims for
9 individual injuries, physical injuries, in this
10 case, as I understand it?

11 A No.

12 Q "No"?

13 A "No." Sorry.

14 Q Do you know a family that lives by you
15 named Raymond?

16 A No, I do not know them.

17 Q They live, you know, a mile or mile and a
18 half from your house?

19 A I don't know them.

20 Q They filed an individual case that seeks
21 personal injuries.

22 MR. DAVIS: Object to the question.

23 MR. SHERK: I haven't said the
24 question yet.

25 MR. DAVIS: Object to the testimony.

1 BY MR. SHERK:

2 Q Do you -- do you believe that you or any
3 members of your family may have sustained
4 personal injuries as a result of the failure of
5 the dike?

6 A I don't know that, if we have -- I mean --
7 personal injuries, I'm not sure what that means.

8 Q Do you believe that you or members of your
9 family have sustained physical injuries as a
10 consequence of the failure of the dike?

11 MR. DAVIS: Object to the form of the
12 question. It's vague.

13 THE WITNESS: Yeah. I can't -- I
14 can't answer that without more specifics on what
15 you're asking for.

16 BY MR. SHERK:

17 Q Do you believe that the failure of the
18 dike at the Kingston facility has in any way
19 caused you physical injury?

20 MR. DAVIS: Object to this question.
21 It's the same question.

22 THE WITNESS: I can't answer that
23 question. I'm not a doctor. I don't know what
24 kind of injury has been caused.

25 BY MR. SHERK:

1 Q But I guess, irrespective of that, you're
2 not claiming damages for physical injuries in
3 this case?

4 A No.

5 Q Do you know neighbors in your area who
6 have other lawsuits against TVA?

7 A No.

8 Q You don't know anyone that has an
9 individual case against TVA then?

10 A No.

11 Q Do you know anyone who was involved in the
12 Auchard lawsuit?

13 A No.

14 Q The Auchard lawsuit has over 300
15 plaintiffs in the area. That's not a case
16 you're familiar with?

17 MR. DAVIS: Object to the form of the
18 question. It's vague.

19 THE WITNESS: I mean, I don't -- no.

20 BY MR. SHERK:

21 Q You don't know them?

22 A No, I do not know them.

23 Q All right. Has anyone tried to convince
24 you to be a plaintiff in any other lawsuit
25 pending against TVA?

1 A No.

2 Q Are you aware that the Chesney complaint
3 is a merger of three class actions that were
4 filed earlier?

5 A Yes.

6 Q Okay. You were not a plaintiff in any of
7 those three causes that produced -- pardon me.
8 Start again.

9 You were not a named class
10 representative in any of those three cases; is
11 that right?

12 A Correct.

13 Q Okay. Do you know anyone that was a named
14 class representative in one of those three prior
15 cases but is no longer -- no longer a class
16 representative in this case?

17 A Not that I'm aware of.

18 Q Okay. Why were you chosen to be a class
19 representative in the Chesney consolidated class
20 action complaint?

21 A I think I was chosen by my legal counsel
22 after they reviewed all the persons involved,
23 and they come up and asked me if I would -- if I
24 would do this. Based on their skills and
25 abilities, you know, what they're -- you know,

1 what they're needing and what they're looking
2 for.

3 Q Is it a position that you actively lobbied
4 for?

5 A No.

6 Q Are you familiar with the Mays class
7 action?

8 A I've heard of it, but I'm not familiar
9 with it.

10 Q Do you know anyone involved in the Mays
11 class action?

12 A No.

13 Q Are you familiar with an attorney named
14 Gordon Ball?

15 A No.

16 Q Let's turn our attention now, Ms. Cordell,
17 to the dike failure that occurred on December
18 22, 2008.

19 A Okay.

20 Q Where were you that evening?

21 A At home.

22 Q Okay. When did you first hear about the
23 failure of the dike?

24 A I didn't hear about it until the next
25 morning.

1 Q What did you hear?

2 A I really didn't hear -- at that time, I
3 didn't hear anything. My husband, that evening,
4 had heard a lot of sirens and activity going on
5 outside, but my whole family was home and we
6 were getting ready for bed or in bed already.

7 Q So you went to bed and went to sleep?

8 A Yes.

9 Q Okay. What happened when you woke up the
10 next morning?

11 A I went to work. And when I left work I
12 seen a lot of vehicles, road closed, so I had to
13 take an alternate route. Still had not heard
14 what was going on until I almost got to work,
15 and I heard on the radio that there was a dike
16 failure.

17 Q So you didn't actually observe anything on
18 the evening of December 22, 2008?

19 A No.

20 Q When you went to work the next morning on
21 December 23, did you see any part of the spill?

22 A It was really foggy that morning and hazy,
23 still dark outside, and -- because I leave at
24 6:00 A.M. So the visibility was really low, so
25 I didn't see a whole lot except for on the sides

1 of the roads there was trucks parked down by the
2 stop sign and lined up. So I couldn't really
3 see anything over into the field there where the
4 pond used to be.

5 And like I said, I went -- took a
6 right instead of a left because the road was
7 blocked.

8 Q What route did you take to work?

9 A I went Hassler Mill Road over to get on
10 the interstate.

11 Q Could you -- could you trace that route
12 that you take on Exhibit No. 2?

13 A I can't read it.

14 Q Is that too little?

15 A Yeah.

16 MR. DAVIS: I think he asked for 2.
17 That's 3.

18 THE WITNESS: Yeah. Let's see. It
19 would have been -- stop sign's right here. I
20 took Hassler Mill on the way out. I'm trying
21 to -- to the interstate. I guess that would be
22 right.

23 BY MR. SHERK:

24 Q What road do you travel?

25 A I take the Interstate 40 towards

1 Knoxville. So instead of going around by the
2 steam plant area, I went this back way down
3 Hassler Mill and got on Pine Ridge Road and up
4 and got on the interstate here.

5 Q Is that your ordinary route?

6 A No.

7 Q Was that the route you took that morning
8 because --

9 A That morning, yes. Because this road was
10 blocked right here. You couldn't go left at the
11 stop sign. You had to go right.

12 Q During the course of the day of
13 December 23, 2008, did you receive additional
14 information about the dike failure?

15 A Just the radio, what they were saying on
16 the radio. Just -- was the basic information I
17 got. I went to work, and I worked the whole
18 day.

19 Q Okay. Did your husband visit the scene of
20 the failure on December 23, 2008?

21 A They walked down there and just looked at
22 it, like everybody else in the world.

23 Q Who's "they"?

24 A My husband and his sister walked down
25 there and just looked -- kind of looked over

1 everything.

2 Q What's her name?

3 A Dawn Fallon.

4 Q D-a-w-n?

5 A Uh-huh. Yes.

6 Q Did he call you and report what he had
7 seen?

8 A I don't remember him calling me, but he
9 might have. I don't remember for sure if he did
10 or not.

11 Q What were your initial reactions to the
12 failure of the dike?

13 A I don't know that I had one because I
14 hadn't really seen anything because it was so --
15 the visibility was really low that morning,
16 foggy, you know. So I didn't really have any
17 reaction that I can remember. Just, of course,
18 concern for my family and the community that
19 nobody got hurt or harmed, that nobody was
20 buried under that pile of stuff, was -- was one
21 of the first things that came into my mind.

22 And then the fact that my son drives
23 that route and the school buses drive that route
24 every single day was -- that scared me.

25 Q Did your kids go to school that day?

1 A I believe it was a school day. Or they
2 might have been on Christmas break then. I
3 can't remember. But I know my son came home
4 that evening about 11:30 from work.

5 Q T.J.?

6 A Yes.

7 Q Had he been out to see the site?

8 A I don't -- I don't recall if he went out
9 and saw it or not.

10 Q Okay. In the couple months following the
11 failure of the dike on December 22, 2008, how
12 did you react?

13 A I guess everybody in the community was
14 confused. I was confused. We didn't have a lot
15 of information. It seemed like there was a lot
16 of chaos, a lot of activity, a lot of people,
17 strangers in the community, roadblocks. I guess
18 I'd react just like everybody else, just -- just
19 confused on what's going on.

20 Q Do you know people that left the area
21 during the two or three months after the dike
22 failure?

23 A What do you mean, left the area?

24 Q People that moved.

25 A Moved? The only family I really knew --

1 knew -- knew was the Spurgeon family because her
2 daughter and my daughter went to school together
3 and they were friends. But I didn't -- they're
4 not somebody that I hang out with or I talk to
5 on a regular basis. It's just kind of because
6 our kids are friends, we discuss and talk.

7 But I did not talk to -- to -- you
8 know, I didn't call them or anything like that.

9 Q But to your understanding they picked up
10 and moved away?

11 A Yeah, I believe so.

12 Q Do you know families that temporarily
13 moved away from their homes?

14 A No.

15 Q What instructions were you given by local
16 authorities in the days after the failure of the
17 dike?

18 A Not -- not that I can remember anything.

19 A few fliers left on the door and just some real
20 general information that the drinking water was
21 safe, and that was about it.

22 Q Okay. Did you receive any information or
23 instructions about the quality of the air
24 following the dike failure?

25 A Not right directly afterwards, no.

1 Q Did you receive bottled water from TVA or
2 any other agencies?

3 A No.

4 Q Were your mailboxes cleaned by TVA or any
5 other agency?

6 A I believe they did come through and clean
7 the mailboxes on day, but I didn't see them do
8 it.

9 Q Did you receive air filters from TVA or
10 some other entity?

11 A I did, yes.

12 Q Okay. Have you continued to reside at
13 your property on Swan Pond Circle since the
14 spill?

15 A Yes.

16 Q Never moved?

17 A No.

18 Q Have you ever left temporarily?

19 A No.

20 Q Ever taken a vacation?

21 A Yes.

22 Q Away from the house?

23 A Yes.

24 Q When would those vacations have taken
25 place?

1 A We took a vacation this year for two weeks
2 in July.

3 Q Any others?

4 A Nothing -- I mean weekends away, you know,
5 things like that, little trips, but nothing -- I
6 went to Michigan last -- last Christmas, or
7 between Christmas and New Year's I went to
8 Michigan to see my sister for about four days.

9 Q Just you?

10 A Me and my daughter Lilly and my son, T.J.

11 Q Is that where your dad is too?

12 A Yes.

13 Q What damages or relief would you like to
14 receive in this lawsuit?

15 A I can't answer that question.

16 Q Money?

17 A I don't -- again, I can't answer that
18 question. I don't -- I'm not an expert in that
19 area. I don't know what damages I would need to
20 get. I don't know what I would need to get out
21 of this.

22 Q Are you seeking medical monitoring?

23 A Yes. Medical monitoring would be
24 something, I think, is extremely important. I
25 think -- my property values, I feel, have been

1 diminished, community has been tainted. That's
2 just not going to go away.

3 Q Your property values have been diminished,
4 you say?

5 A I feel my property values have been
6 diminished, yes.

7 Q How would you like TVA and the other
8 defendants to respond to that?

9 A I think they need to do the right thing,
10 and they need to do what they said they would do
11 from -- you know, we're going to make this
12 right.

13 Q How would -- how do they -- how would they
14 do the right thing beyond what is being done
15 already?

16 A I don't know. That's why I hired a
17 lawyer.

18 Q Okay.

19 A They are the experts that can represent me
20 in those areas.

21 Q In your opinion if the clean-up efforts
22 are successful, will the taint from the
23 community be removed?

24 A No.

25 Q Why is that?

1 A Because it's always going to be there.
2 We're always going to be known for that. It's
3 going to be in history books, it's going to be
4 in the Wikipedia on the web, it's going to be in
5 every -- everything. It's kind of what our
6 community is going to be known for for a long
7 time.

8 And that will have to be, I would
9 think, disposed -- you'd have to tell people
10 that if they're going to purchase property in
11 the area. If you're doing the right thing, you
12 would tell people that that stuff's there and
13 it's always going to be there.

14 Q Do you have confidence that the clean-up
15 effort can be successful such that there isn't
16 the material?

17 MR. DAVIS: I'm going to object to
18 the form of the question. That word
19 "successful" is extremely vague when it comes to
20 a massive clean-up effort.

21 THE WITNESS: Again, I'm not a -- I'm
22 not an environmentalist. I can't -- I don't
23 know if it will be successful or not.

24 BY MR. SHERK:

25 Q Okay. You're not making a claim for

1 emotional distress, I understand; is that right?

2 A Correct.

3 Q Okay. Are you asking TVA or the other
4 defendants to do anything particular with
5 respect to your property?

6 A As in -- can you give me an example?

7 Q Are there -- are there clean-up activities
8 or other things that you would like them to do
9 to your property?

10 A No. I mean, I don't know what needs to be
11 done because I'm not an expert. I don't know
12 about fly ash.

13 Q You've made the request before that TVA
14 purchase your property?

15 A Yes.

16 Q Do you still desire that result?

17 A I don't know that I -- I can answer that.
18 My husband and I would need to sit down and
19 really think about that and make -- and make
20 sure that that's what we still would like.

21 Q Do you think the remediation efforts that
22 have occurred since the spill have improved the
23 area?

24 MR. DAVIS: I object to the question.
25 That's vague.

1 THE WITNESS: Again, I'm not an
2 expert in that area, so I can't answer that with
3 confidence.

4 BY MR. SHERK:

5 Q Does the area that's being remediated look
6 better to you today than it did right after the
7 spill?

8 MR. DAVIS: Object to the question.
9 Vague.

10 THE WITNESS: It looks different. I
11 don't know that it looks any better, in my
12 opinion.

13 BY MR. SHERK:

14 Q Would you say it is an improvement over
15 how it looked right after the spill?

16 A I can't say that, no.

17 Q You don't think it looks any better at
18 all?

19 A It looks the same. It's a mess.

20 Q Let's think back again to when you
21 purchased your house on Swan Pond Circle. That
22 was in 2000, you said?

23 A Yes.

24 Q Okay. I believe your testimony was that
25 you chose to be back in this area because your

1 husband had family here?

2 A Yes.

3 Q How did you choose your house on Swan Pond
4 Circle?

5 A That home was where my husband grew up.
6 He helped his stepfather build that home, and
7 his stepfather was in really bad health and my
8 mother-in-law couldn't take care of him anymore.
9 So when they asked us to purchase the home
10 because they weren't able to keep it up, we
11 decided that that would be something we needed
12 to do and that way we were able to help take
13 care of him.

14 Q At that time were you living in the
15 trailer on the adjoining parcel?

16 A No, sir. We lived in the Lenoir City at
17 that time.

18 Q Other than the closeness to your husband's
19 family, is there any reason that you chose the
20 Kingston area to live in?

21 A Just the fact that this is where my
22 husband grew up and just -- it's just a nice
23 area for our kids to grow up.

24 Q A good quality of life?

25 A Yes.

1 Q Low cost of living?

2 A Safe.

3 Q Were you interested in the recreation
4 possibilities that this area offers?

5 A Yes.

6 Q Did closeness or proximity to work have
7 anything to do with your choosing the house on
8 Swan Pond Circle?

9 A No.

10 Q When you decided to purchase the house on
11 Swan Pond Circle, you were aware of its
12 proximity to the Tennessee Valley -- Tennessee
13 Valley Authority facility?

14 A I knew it was there, yes.

15 Q Can you see it from the house?

16 A I could see the towers, yes.

17 Q Before the spill, how long would it take
18 you to drive from your house to the facility
19 area?

20 A My house to TVA?

21 Q Yeah.

22 A A minute and a half, maybe two minutes.

23 Q Okay. How would you describe your
24 neighborhood?

25 MR. DAVIS: Object to the form.

1 You mean -- what time period?

2 BY MR. SHERK:

3 Q When you bought your house, how would you
4 describe your neighborhood?

5 A It's quiet, rural, just calm, serene.

6 Q Okay. How do you -- how would you
7 describe your house?

8 A As in my physical home?

9 Q Uh-huh. Yeah.

10 A It was an older home, needed a lot of
11 upgrades, but it was -- had a lot of sentimental
12 value to us.

13 We're proud of what we have, and
14 it's about -- that's how I describe it. Safe --
15 it's our safe haven. It's one place we can go
16 and feel safe in the world, away from all the
17 chaos that's out there.

18 (Marked Exhibit 4.)

19 BY MR. SHERK:

20 Q Ms. Cordell, I've handed you Deposition
21 Exhibit No. 4, and I'll represent to you that
22 this is an aerial photo.

23 Do you see Exhibit 4?

24 A Yes.

25 Q Okay. Can you tell me what Exhibit 4

1 depicts?

2 A It's a picture of my home.

3 Q Is this a fair and accurate representation
4 of your home?

5 A Yeah.

6 MR. DAVIS: I'm going to object to
7 the question because you haven't given a
8 specific date or time frame.

9 MR. SHERK: It says on the bottom
10 right-hand side, date of photography, January 9,
11 2009.

12 MR. DAVIS: So ask your question in
13 that time frame.

14 BY MR. SHERK:

15 Q Ms. Cordell, as of January 9, 2009, does
16 this appear to be a fair and accurate picture of
17 your home?

18 A Yes.

19 Q Okay. Do you see Swan Pond Circle Road on
20 Exhibit 4?

21 A Yes.

22 Q If you look -- could you circle your
23 house, would you mind, on Exhibit 4?

24 A (Witness complies.)

25 Q To the left of your house, closer to the

1 road, is the trailer; correct?

2 A This is right here.

3 Q Could you circle that?

4 A (Witness complies.)

5 Q That's where your mother-in-law stays?

6 A Yes.

7 Q From Swan Pond Circle Road, if you're
8 looking at your house, are you looking up a hill
9 toward your house?

10 A Yes.

11 Q Is it a fairly steep elevation?

12 A I mean, it's not real steep, but it's a
13 little -- it's on the top of that hill there.

14 Q Does your property plot continue to slope
15 uphill from the road?

16 A Yes.

17 Q Okay. How close to the river are you from
18 your house?

19 MR. DAVIS: Object to the form.

20 THE WITNESS: I'm not -- I don't
21 know. I've never measured it.

22 BY MR. SHERK:

23 Q Can you estimate it?

24 A When you say "the river," you mean the --
25 what's across the street or do you mean the big

1 river?

2 Q The big river.

3 A I'd estimate probably two or three miles.

4 Q Okay. How close are you to the slough?

5 MR. DAVIS: Object to the form.

6 THE WITNESS: The slough as in the
7 containment area, the stuff that spilled?

8 BY MR. SHERK:

9 Q The slough that I understand to be right
10 across the street from your house.

11 A I don't understand what you're calling a
12 slough. I don't understand that term -- I don't
13 know what that terminology is, a slough.

14 Q What would you call the area that's across
15 the road and down the hill from your house?

16 A That would be what I would call a creek.

17 Q Creek, okay.

18 A Used to be a creek. And now it's kind of
19 a -- that's just a big mess, like a marsh area
20 now.

21 MR. DAVIS: Is this about a
22 convenient time to take a break, whenever you
23 feel that you've come to a point?

24 MR. SHERK: Sure, that's fine.

25 Would you like to take a break?

1 THE WITNESS: Yes, please.

2 THE VIDEOGRAPHER: This is the end of
3 tape No. 2. Going off the record. Time is
4 11:13.

5 (Recess.)

6 THE VIDEOGRAPHER: On the record.
7 This is the beginning of tape No. 3. Time is
8 11:24.

9 BY MR. SHERK:

10 Q Ms. Cordell, we're back on the record
11 after a short break. When we left off, we were
12 talking generally about your house on Swan Pond
13 Circle. I believe you testified earlier that
14 your husband helped build that house?

15 A When he was a boy.

16 Q And it was owned by?

17 A His parents.

18 Q Okay. And you purchased it, you and your
19 husband, from his parents?

20 A Yes.

21 Q Because his father became ill and could no
22 longer --

23 A Maintain; correct.

24 Q What is the house built of? Wood?

25 A Yes. Cinderblock, wood, sheetrock, nails.

1 Q Brick?

2 A No.

3 Q How many floors?

4 A Two floors.

5 Q How many bedrooms?

6 A Six.

7 Q How many square feet?

8 A Approximately 35, 3600.

9 Q Okay. Number of bathrooms?

10 A Two.

11 Q Does it have a pool?

12 A Above ground, yes.

13 Q Basement or crawlspace?

14 A It's a basement.

15 Q What is the foundation made of?

16 A Cement.

17 Q Okay. Any foundation trouble?

18 A Not that I'm aware of.

19 Q Any flooding in the basement?

20 A Not that -- no.

21 Q Has your home been tested for radon?

22 A No.

23 Q Do you have a porch on your house?

24 A Yes.

25 Q Where is that?

1 A I have one out front that faces the field
2 across the street, and I have a carport on back.
3 Q Do you have a patio or a deck?
4 A I have one -- it's a closed-in deck out in
5 the front side of the house that faces towards
6 the trailer.
7 Q Is it like a screened-in porch?
8 A Yes. But it's totally enclosed, glass.
9 Q Okay. Great.
10 What type of windows do you have?
11 A Just -- I don't remember the brand, but
12 just regular house windows.
13 Q Are they the original windows?
14 A No.
15 Q You've replaced them?
16 A Yes.
17 Q How long ago were they replaced?
18 A We replaced them in the fall of 2008.
19 Q Okay. Are there -- are they snug?
20 A I assume so, yes.
21 Q Do you have central air conditioning?
22 A Yes.
23 Q Do you have carpet, tile, or wood floors?
24 A Combination.
25 Q What is your source of water?

1 A Harriman Utilities.

2 Q You do not have a well?

3 A No.

4 Q Okay. Since buying the house, have you

5 completed any home improvement projects?

6 A Yes.

7 Q What would those be?

8 A We had the basement refinished -- or

9 finished. It was unfinished when we bought the

10 home. We had upgraded the cabinetry upstairs in

11 the kitchen, upgraded the kitchen. We pulled

12 out all the old shag carpet and put in new

13 carpet when we first moved in, and since then

14 we've upgraded to wood flooring.

15 Q Is it wood flooring in the first floor

16 area?

17 A The main living area, yes.

18 Q Does the upstairs have carpet?

19 A Just in the two back bedrooms.

20 Q And the rest is wood floor upstairs?

21 A Uh-huh, yes.

22 Q Any other home improvement projects since

23 you bought the house?

24 A No.

25 Q Okay. How would you compare your house to

1 others in the neighborhood?

2 A Probably larger than most people's. It's
3 just an average home.

4 Q Is it more stately, in your opinion, than
5 other houses around there?

6 A I don't think so.

7 Q Is it a better maintained home than others
8 in the area?

9 A I haven't really compared. We do -- we do
10 try to maintain our home.

11 Q Is your house more updated than others in
12 the area?

13 MR. DAVIS: Object to the question.
14 It's vague.

15 THE WITNESS: Could you expound on
16 that a little bit more?

17 BY MR. SHERK:

18 Q Have you updated your house more
19 frequently than others in the area?

20 A I don't know. I can't answer that.

21 Q Do you run any kind of business out of
22 your home?

23 A No.

24 Q Does your husband have a shop or anything
25 like that where he has projects?

1 A No.

2 Q Have you taken any photos or videos of
3 your house since moving in?

4 A Explain -- what do you mean, photos?
5 Outside photos, inside photos?

6 Q Have you taken any photos of the outside
7 of your house since moving in?

8 A I may have a few snapshots, but --

9 Q Any videos of the outside of your house
10 since moving in?

11 A I don't recall any, no.

12 Q Have you taken any photographs of the
13 inside of your house since moving in?

14 A Not specifically of the house. I mean,
15 people in the house, yes.

16 Q Did you produce those photographs of your
17 house both inside and outside?

18 A No. I was not asked to.

19 Q Is there any portion of your property that
20 is used for agricultural purposes?

21 MR. DAVIS: Object to the question.
22 It's vague.

23 THE WITNESS: Can you be more
24 specific?

25 BY MR. SHERK:

1 Q Do you grow anything on your property?
2 A We used to. We had a garden, but we --
3 Q When did you have a garden?
4 A We haven't had a garden in about three
5 years.
6 Q During what years did you have the garden?
7 A I don't remember. I mean -- I -- I don't
8 remember. We just normally do one in the
9 summer. Sometimes we'll skip a summer,
10 sometimes we won't, depending on what our
11 schedule is.
12 Q Did you ever have any farm animals on your
13 property like cows or horses?
14 A No.
15 Q Do you have pets?
16 A I do.
17 Q What pets have you had since you moved in?
18 A I had a dachshund, a parakeet -- or not a
19 parakeet -- a cockateel that was given to my
20 daughter. And I currently have two Yorkie dogs.
21 Q Do you still have the dachshund and the
22 cockateel?
23 A No, I do not.
24 Q Did those pass away?
25 A The dachshund we had to give to another

1 person. The cockateel drove my daughter crazy,
2 so my sister took it. And I still have the
3 Yorkies.

4 Q Okay. Great. Do you walk your dogs?

5 A They have a dog lot outside that they go
6 into.

7 Q Thinking back over the various places
8 you've lived in your life, have you ever lived
9 by any manufacturing plant?

10 A No.

11 Q Have you ever lived by a chemical plant?

12 A No.

13 Q Have you ever lived by a plant that made
14 rubber or tires?

15 A Not that I'm aware of, no.

16 Q Have you ever lived by a steel
17 manufacturing plant?

18 A No.

19 Q Have you ever lived by a shipyard?

20 A No.

21 Q You have lived on Air Force bases?

22 A Yes.

23 Q Ever lived by an automobile manufacturing
24 plant?

25 A No.

1 Q Ever lived by a landfill?

2 A No.

3 Q Have you ever lived by a waste treatment

4 facility?

5 A No.

6 Q Have you ever lived in an industrial area?

7 A No.

8 Q You've described the area that you live in

9 now as rural?

10 A Yes.

11 Q But it's not exactly a farming area, is

12 it?

13 A No.

14 Q Have you ever lived in a farming rural

15 area?

16 A Yes.

17 Q When did you -- when did you?

18 A I grew up in a farming area.

19 Q Where was that?

20 A Michigan.

21 Q Did you grow up on a farm?

22 A Yes.

23 Q From what years? How old were you when

24 you were on the farm?

25 A From birth to -- till I was in ninth

1 grade, so 12, 13 years old.

2 Q Did you do farm chores?

3 A Feed the horses and cows and pigs, yeah.

4 Q What was grown on the farm?

5 A My father didn't farm because he worked a
6 full-time job somewhere else, so he rented the
7 property out to other farmers.

8 Q What did they grow on the farm?

9 A Corn, soybean.

10 Q Did you ever have anything to do with
11 the -- the planting or harvesting of corn or
12 soybeans?

13 A No.

14 Q Have any of the homes you've lived in been
15 tested for radon?

16 A No.

17 Q Have any of the homes you've lived in been
18 tested for the presence of indoor contaminants?

19 A No.

20 Q What type of septic or sewer system do you
21 have at your present house?

22 A Just a regular septic tank.

23 Q It's below ground?

24 A Yes.

25 Q Prior to the spill, during the weekday,

1 how many hours, approximately, would you spend
2 at home?

3 A Well, I'm out of the home, about 40 hours
4 a week at work. The rest of the time, I'm home.

5 Q Since moving in your home in 2000, have
6 you always had a schedule where you were leaving
7 the house at 6:00 A.M.?

8 A Yes.

9 Q And when do you get home typically?

10 A About 6:00, 5:30-ish.

11 Q So you've got quite a commute then each
12 way?

13 A Yes.

14 Q What do you do when you're spending your
15 time at home during the week?

16 A Take care of my home, take care of my
17 family, go to church, work in the yard when we
18 can, use the pool, just regular family stuff.

19 Q Prior to the spill, how did you spend your
20 weekend?

21 A We spent more time outside. We don't
22 spend as much time outside, try to find more
23 activities inside to do, go places more, I
24 think.

25 Q Okay. And your outside time would be

1 composed of -- you said the pool?

2 A Yes.

3 Q Yard work?

4 A Uh-huh, yes.

5 Q Any other kinds of recreation you would
6 do?

7 A Just play in the yard with the kids,
8 basketball, go to softball, kick ball, do flower
9 gardens.

10 Q Who cuts the grass?

11 A My husband, and my son helps him.

12 Q Do you take care of the flowers and
13 shrubbery?

14 MR. DAVIS: I'm going to object to
15 the question because you haven't specified which
16 period of time. You were talking about before
17 the spill and after the spill, but now you're
18 not distinguishing.

19 BY MR. SHERK:

20 Q During the entire time that you've lived
21 there, have you taken care of any portion of the
22 outside grounds of your house?

23 A Yes. I help mow the yard.

24 Q Has that changed since the spill?

25 A I don't mow anymore myself. My husband

1 still mows the yard and my son helps him.

2 Q So pre-spill you would help mow the lawn;
3 correct?

4 A Yes.

5 Q But after the spill you have not?

6 A I have not.

7 Q Does that have anything to do with the
8 spill, or is it a function of your son getting
9 older?

10 A Son getting older and being able to help
11 more with that.

12 Q Do your outside activities -- did your
13 outside activities, pre-spill, vary with the
14 season in any way?

15 A What do you mean, vary with the season?

16 Q For example, would you do different things
17 in the summer than you would in the winter
18 outside?

19 A Yes.

20 Q You said you have a garden?

21 A We don't this year, no, but we have in the
22 past.

23 Q From time to time. Okay.

24 Before the spill, from 2000 to 2008,
25 how much entertaining would you do?

1 A We would have friends over on a regular
2 basis, do bonfires outside, swim in the pool.
3 We have not really done any of that.

4 Q I'm sorry?

5 A We have really not done any of that since
6 then.

7 Q You don't use the pool?

8 A Not very often. Kids have only been in it
9 a few times this year, and same last year.

10 Q Why is that?

11 A Just don't know if it's safe to take the
12 risk.

13 Q Okay. Have you continued to entertain
14 since the spill?

15 A Very minimal. If we do, we stay in the
16 house.

17 Q Do you ever grill outside since the spill?

18 A Occasionally, but very rare.

19 Q Okay. Do you use your deck since the
20 spill?

21 A Again, just around the pool, when we do go
22 out.

23 Q Prior to the spill, did you regularly
24 exercise in any way?

25 A Yes.

1 Q What sorts of exercise would you do?
2 A Running.
3 Q Anything else?
4 A We all -- me and my husband both run.
5 Q Since the spill, do you still run?
6 A At work.
7 Q How about your husband?
8 A He has been running still, but not as much
9 as he used to.
10 Q Is that because of the spill or because
11 he's just gotten older?
12 A I don't know if it's --
13 Q Have you ever asked him?
14 A No, I haven't.
15 Q When you moved into your house in 2000,
16 would you do activities on the river?
17 A On the river?
18 Q Uh-huh.
19 A Not a whole lot, no.
20 Q Do you have a boat?
21 A No.
22 Q You don't ski then, water ski?
23 A I do not, no.
24 Q Okay. Do you fish?
25 A No, I do not.

1 Q On the river?

2 A No.

3 Q No boating on the river then?

4 A No. No.

5 Q Either before or after the spill?

6 A We have friends that have a boat, and

7 we've been out with them a few times, but very,

8 very few times have we been out. I don't like

9 my kids to swim in it. Even before the spill, I

10 didn't want my children to swim in it.

11 Q Even before the spill?

12 A Yes.

13 Q Why is that?

14 A Because I -- especially around the area

15 where, like I said, the Spurgeons live, my

16 daughter Lilly would go over there, and they

17 would swim there, and I told her I don't want

18 her to swim there because I've seen stuff coming

19 out of that area, and I didn't know what it was.

20 Q Which area -- where -- where --

21 A Down by the containment area.

22 Q That's where their house is?

23 A It was on the other side, but just common

24 sense told me if it's leaking here, it's

25 possibly leaking there right into the water.

1 And I didn't know what it was that was in there.

2 Q That was pre-spill?

3 A Pre-spill, yes.

4 Q Do you jetski?

5 A I do not, no.

6 Q Is there any kind of outside activity that
7 you have engaged in since moving to your house
8 on Swan Pond Circle that we haven't talked
9 about?

10 A No.

11 Q Do you or your husband hunt?

12 A No.

13 Q Do you fish?

14 A Do I fish? No.

15 Q Does your husband fish?

16 A He has in the past, yes.

17 Q Did he fish before the spill?

18 A A few times, yes.

19 Q Has he continued to fish after the spill?

20 A No.

21 Q Do either of you hike?

22 A No. Well, I mean if we did hike, we'd
23 just probably go to the mountains and do it, so
24 I don't think where we're at would be a place we
25 would hike anyhow.

1 Q Okay. Ms. Cordell, your property is not
2 on the water; correct?

3 A Correct.

4 Q It's not on the river?

5 A Correct.

6 Q Okay. I believe you testified that since
7 the spill, trucks go by in front of your house?

8 A Yes.

9 Q Okay. What do those trucks carry?

10 A I don't know.

11 Q Okay. All right. Do you believe that ash
12 has gotten on your property?

13 A Yes.

14 Q How so?

15 A From -- from all the activity, the trucks,
16 the wind, the initial dike breaking. It's --
17 there's not a bubble around TVA that's keeping
18 it all contained, that one little zone that they
19 are working in. The dust has increased in my
20 home tremendously.

21 It's just common sense says that it
22 would -- it will be there.

23 Q Okay. Did you see material on your
24 property after the failure of the dike?

25 A No. But can I expound on that?

1 I would not know what to look for
2 because I'm not a specialist in ash. I wouldn't
3 know what to look for. I believe it's there,
4 yes, after the spill.

5 Q It's your testimony that you don't know
6 what the ash looks like?

7 A I mean, I know what it looks like, but I
8 wouldn't know what to look for if it was in the
9 ground, in my house, or on my house. I'm not --
10 because I'm not an expert.

11 Q Is it your testimony here today, then,
12 that you don't know that you have seen ash on
13 your property?

14 A No, not necessarily. I believe ash is on
15 my property, yes.

16 Q Have you seen ash on your property?

17 A I believe I have, yes, but I don't have
18 that verified.

19 Q You're not sure about that?

20 A Right.

21 Q Has any expert or scientist come to your
22 property to test it to determine whether ash is
23 on it?

24 A No.

25 Q Why is that?

1 A I don't know.

2 Q Has anyone taken any measurements of your
3 property to determine if ash is on it, how much
4 is on there?

5 A No.

6 Q Have you been able to determine that --
7 well, let me rephrase that.

8 So you believe that ash got on your
9 property through -- through dust?

10 A Yes.

11 Q Okay. And through the initial dike
12 failure?

13 A Yes.

14 Q Any other ways?

15 A Trucks driving by, carrying it on the
16 vehicles, the heavy equipment moving it around.
17 It's just -- it's just bound to -- to seep onto
18 the area that it's in.

19 Q Okay. No expert or anyone else has
20 confirmed that for you, though?

21 A No.

22 (Marked Exhibit 5.)

23 BY MR. SHERK:

24 Q Ms. Cordell, you've been handed Exhibit
25 No. 5.

1 Do you see that document?

2 A Yes.

3 Q That's a document entitled "Warranty
4 Deed"; correct?

5 A Yes.

6 Q Please take your time to take a look at
7 that.

8 Do you recognize that document?

9 A Yes.

10 Q Is this the warranty deed for the purchase
11 by you and your husband of your home on Swan
12 Pond Circle?

13 A Yes.

14 Q Okay. I believe you said you purchased
15 this property?

16 A Yes.

17 Q Do you remember the purchase price?

18 A \$125,000.

19 Q Okay. And I believe that you said that
20 the property was in some need of updating when
21 you got it?

22 A Yes.

23 Q Did you have any appraisals done of the
24 property at the time that you bought it?

25 A Yes, there are required appraisals.

1 Q Okay. Do you remember the amount of the
2 appraisals back then?

3 A I do not.

4 (Marked Exhibit 6.)

5 BY MR. SHERK:

6 Q Ms. Cordell, you've been handed Deposition
7 Exhibit No. 6, and I'll represent to you that
8 that's a document entitled "Deed of Trust."

9 Do you see that?

10 A Yes.

11 Q Take a second to review that. Okay. This
12 document is dated August 6, 2008.

13 A Right.

14 Q At the very top right-hand portion of the
15 first page, do you see that?

16 A Uh-huh, yes.

17 Q Is that essentially when you remember
18 entering into this document?

19 MR. DAVIS: Objection. The document
20 speaks for itself.

21 BY MR. SHERK:

22 Q You can answer.

23 A I believe so.

24 Q Okay. Was this a refinancing of your
25 house?

1 A I'm trying to remember. I believe so,
2 yes.

3 Q I'd like to direct your attention to
4 page 146 of this document.

5 A Okay.

6 Q The numbers are at the bottom of the page.
7 It starts with 135.

8 Do you see that?

9 A 146?

10 Q Uh-huh.

11 A Okay.

12 Q Okay. Down at the very last paragraph of
13 page 146, I'm going to read a portion. It
14 says,

15 "Borrower shall promptly
16 give Lender written notice of
17 (a) any investigation, claim,
18 demand, lawsuit, or other action
19 by any governmental or
20 regulatory agency or private
21 party involving the Property and
22 any Hazardous Substance or
23 Environmental Law of which
24 Borrower has actual knowledge,
25 (b) any Environmental Condition,

1 including but not limited to,
2 any spilling, leaking,
3 discharge, or release or threat
4 of any release of any Hazardous
5 Substance, and (c) any condition
6 caused by the presence, use or
7 release of a Hazardous Substance
8 which adversely affects the
9 value of the Property."

10 Do you see that?

11 A Yes.

12 Q Did I read that correctly?

13 A Yes.

14 Q Now, since the spill, in 2008, have you
15 taken any steps to alert your lender of the
16 failure of the dike at the Kingston facility?

17 A No, I have not.

18 Q Were you aware of this provision?

19 A No, I was not.

20 Q I believe you testified earlier that you
21 thought it would be appropriate to notify
22 anybody that was to purchase the property --

23 A Yes.

24 Q -- as to what had happened in the area?

25 A Yes.

1 Q Do you feel now that the -- your lender
2 should be alerted to what's happened in or
3 around your property?

4 MR. DAVIS: Object to the question.
5 You're asking for a legal conclusion on the part
6 of Ms. Cordell.

7 BY MR. SHERK:

8 Q You can answer.

9 A I have no problem notifying them. I've
10 made all my payments and done everything that
11 I'm supposed to do as the owner of the property,
12 so it doesn't affect the fact that I have a loan
13 with them. But I have no problem notifying
14 them.

15 Q Okay. Do you have homeowner's insurance?

16 A Yes.

17 Q With whom?

18 A Farm Bureau.

19 Q Do you know the value of your policy?

20 A Not right offhand, I don't. My husband
21 handles that.

22 Q Has any insurance company told you that
23 your property was not insurable since the spill?

24 A No.

25 Q Have you gone to your insurance carrier

1 and asked them to reduce the value of your
2 insurance policy as a consequence of the spill?

3 A No.

4 Q Okay. We are at a time, I think, if we
5 wanted to take a lunch break now, we could, or
6 we --

7 MR. DAVIS: Okay.

8 MR. SHERK: -- could continue on.

9 MR. DAVIS: Why don't we go ahead
10 and break.

11 THE VIDEOGRAPHER: Going off the
12 record. Time is 11:57.

13 (Lunch recess.)

14 THE VIDEOGRAPHER: Back on the
15 record. Time is 1:06.

16 BY MR. SHERK:

17 Q Ms. Cordell, we're back on the record
18 after a lunch break.

19 Are you feeling okay?

20 A Yes.

21 Q Ready to wrap this up?

22 A Yes.

23 Q All right. Over lunch I've made a
24 chronology where you have lived over time based
25 upon my notes, and I've conferred with counsel.

1 Let me run this by you.

2 All right?

3 A Okay.

4 Q 1967, you were born. Yes?

5 A Correct.

6 Q 1985, you graduated from high school?

7 A Correct.

8 Q 1985, you joined the Air Force?

9 A Correct.

10 Q From 1985 to 1987, you were stationed in
11 Crete, Greece?

12 A Yes.

13 Q From 1987 to 1989 you were stationed in
14 Great Falls, Montana?

15 A That's correct.

16 Q In 1989, you received an honorable
17 discharge?

18 A Correct.

19 Q In 1989, then, you moved to Myrtle Beach,
20 South Carolina?

21 A I moved here because my husband was in
22 Korea for a year. For one year I was here.

23 Q So in 1989, after your discharge, you
24 moved to Tennessee '89 to '90?

25 A Yes.

1 Q Okay. In 1990 T.J. was born?
2 A Yes.
3 Q Was he born in South Carolina or
4 Tennessee?
5 A Tennessee.
6 Q Okay. Then in 1991, you moved to Myrtle
7 Beach, South Carolina?
8 A No. We moved to Myrtle Beach like the
9 fall of '90, like October or November of '90.
10 Q What's T.J.'s date of birth?
11 A July 1.
12 Q So later on in the year?
13 A My husband came back from Korea and was
14 stationed in Myrtle Beach.
15 Q In 1991 to '92 you moved back to
16 Tennessee?
17 A Uh-huh. Correct.
18 Q When you moved back, you worked for
19 Johnson Controls?
20 A That's correct.
21 Q In December of 1993 Makayla was born?
22 A Correct.
23 Q You took two years off from 1993 to 1995?
24 A No, I took off -- it wasn't two years. It
25 was probably -- so she was born in December, I

1 took maternity leave, I went back to work for a
2 month, so about March I resigned from that
3 position, and by the end of that year, I went
4 back to work.

5 So I took off till she was about a
6 year old. She was about a year old, and I put
7 her in private daycare with a friend of mine
8 that I felt that I could trust.

9 Q So in December of 1993 Makayla was born?

10 A Uh-huh.

11 Q And you took a year off of work?

12 A A year off, uh-huh.

13 Q And roughly December of 1994 you went back
14 to work?

15 A Yes.

16 Q You went back to work at Johnson Controls
17 but only for a short time?

18 A Like a month, yeah.

19 Q Then did you immediately work for Fox
20 Environmental?

21 A No. I took off for maternity leave for 12
22 weeks. I went back to Johnson Controls, worked
23 a month, and then I resigned from Johnson
24 Controls because I decided to stay home with her
25 till she was older. And then I took off until

1 she was a year old. And then I got hired on
2 after that with Fox Environmental.

3 Q So in roughly 1996 you began to work for
4 Fox Environmental?

5 A No.

6 Q Sorry?

7 A No. Makayla was born in '93, December of
8 '93. I took the month of December and part of
9 January off for maternity leave. I went back to
10 work at Johnson Controls for about a month. So
11 by the end -- and at the end of February, I quit
12 working at Johnson Controls, of '94.

13 I worked -- I stayed off until
14 probably November -- October, November of '94,
15 when she was a year old -- around a year old, I
16 went back to work at Fox Environmental. So kind
17 of the end of '94, I went back to work at Fox
18 Environmental, worked there until November of
19 1995, and that's when I got hired on at McGhee
20 Tyson.

21 Q How long did you work at McGhee Tyson?

22 A I still work at McGhee Tyson.

23 Q Oh, that's the Tennessee Air Guard?

24 A Yes.

25 Q And Lillian was born in 1998?

1 A Yes.

2 Q Okay. All right, then.

3 Let me ask you this. Have you ever
4 skied in the Emory River since living in
5 Tennessee?

6 A I don't ski.

7 Q Period?

8 A Don't know how.

9 (Marked Exhibit 7.)

10 BY MR. SHERK:

11 Q Okay. Ms. Cordell, you've been handed
12 Deposition Exhibit No. 7, and I'll represent to
13 you that this is a real estate appraisal.

14 Do you see this document?

15 A Yes.

16 Q Do you remember ever having looked at this
17 document?

18 A I don't recall offhand.

19 Q Do you see in the upper left-hand corner
20 it says,

21 "Ownership and mailing
22 address, Cordell, Patricia R.
23 and Thomas"?

24 A Yes.

25 Q Do you understand that this is an

1 appraisal that was done on your home?

2 MR. DAVIS: Object to the question.

3 It's not an appraisal.

4 BY MR. SHERK:

5 Q What's the title of this document at the
6 very top?

7 A State of Tennessee Real Estate Appraisal
8 Card.

9 Q Okay. You can answer.

10 MR. DAVIS: She did answer.

11 BY MR. SHERK:

12 Q Do you understand this to be an appraisal?

13 A I guess, yeah.

14 MR. DAVIS: Object to the question.

15 BY MR. SHERK:

16 Q Do you see on the right-hand side top of
17 the -- toward the top of the page, it says,
18 "Total Appraisal, 150,200"?

19 A Yes.

20 Q Okay. And then up above that it says,
21 "Updated 8/18/2008"?

22 A Yes.

23 Q Do you remember having ever seen this
24 document?

25 A It doesn't look familiar. But it -- so I

1 can't say for sure if I've seen it or not. It
2 could have been attached in the appraisal we had
3 accomplished in 2008, but I don't remember -- I
4 don't have all those documents memorized.

5 Q Sure. Do you know whether or not your tax
6 liabilities to the County were based on this
7 appraisal?

8 A I don't know what they base them on.

9 Q Okay. What appraisal did you have done in
10 2008?

11 A We -- we refinanced our home in 2008.

12 Q And had an appraisal done then?

13 A I believe so, yes.

14 (Marked Exhibit 8.)

15 BY MR. SHERK:

16 Q Ms. Cordell, you've been handed Deposition
17 Exhibit No. 8. I'll represent to you that this
18 is another state of Tennessee Real Estate
19 Appraisal Card.

20 Do you see that document?

21 A Yes.

22 Q Do you see the top right-hand part of the
23 document, it says, "Updated April 7, 2010"?

24 A Yes.

25 Q Do you see below that it says, "Total

1 Appraisal, \$183,100"?

2 A Yes.

3 Q Were you aware that your house had been
4 appraised for \$183,100?

5 MR. DAVIS: Object to the question.

6 THE WITNESS: By the County
7 appraiser?

8 BY MR. SHERK:

9 Q Yeah.

10 A Nobody came and talked to me about my
11 appraisal.

12 Q Did you, at any time, object to the taxes
13 that you were paying on your house on Swan Pond
14 Circle?

15 A I did not.

16 MR. SHERK: Okay. Pardon me. Can
17 we go off the record just for a second?

18 THE VIDEOGRAPHER: Going off the
19 record. Time is 1:17.

20 (Off the record.)

21 THE VIDEOGRAPHER: Back on the
22 record. Time is 1:19.

23 BY MR. SHERK:

24 Q Ms. Cordell, you indicated that in 2008 an
25 appraisal was done in connection with a

1 refinancing of your house?

2 A I believe it was in 2008 we refinanced our
3 home.

4 Q Did you accomplish the refinance?

5 A Yes.

6 Q And what was the refinance for?

7 A My husband was getting ready to retire and
8 we wanted to just refinance to reduce the amount
9 from a 15-year note to a 30, so -- until we
10 adjusted to our lower income.

11 Q For a lower monthly payment?

12 A Yes.

13 Q And an appraisal was done in connection
14 with that refinance?

15 A I believe so, yes.

16 Q Do you have a copy of that?

17 A I believe I provided that document.

18 MR. DAVIS: Okay. We can do this on
19 the record, it doesn't matter. But I don't know
20 that she had it.

21 If you had it, you would have
22 provided it; right?

23 THE WITNESS: Yes.

24 MR. DAVIS: They don't always give
25 you a copy, the bank doesn't.

1 MR. SHERK: We don't have one.

2 MR. DAVIS: We'll ask, and she can
3 look for that. Okay. We'll provide it if she
4 has it.

5 MR. SHERK: Great.

6 Q Have you ever considered selling your
7 property on Swan Pond Circle?

8 A No.

9 Q If you were to sell it, how much do you
10 think it's worth?

11 A I don't have a clue. I'm not -- I mean,
12 I'm not experienced in appraising stuff. I
13 don't know how they even come up with a number
14 to that.

15 Q Not even a range of numbers?

16 A No.

17 Q Have you recently purchased an additional
18 piece of property?

19 A Yes.

20 Q Okay. Oh, I'm sorry, getting back to the
21 2008 appraisal, do you remember what your house
22 appraised for?

23 A I do not remember it right offhand.

24 Q Can you ballpark it?

25 A No.

1 Q So where is the new piece of property that
2 you have purchased?

3 A We purchased a vacation home in -- or a
4 small cabin fixer-upper in LaFollette, which is
5 on Norris Lake.

6 Q Norris Lake?

7 A Norris Lake, yes.

8 MR. DAVIS: Norris?

9 THE WITNESS: Norris.

10 MR. DAVIS: Norris.

11 BY MR. SHERK:

12 Q That's Norris Lake, Tennessee?

13 A Yes.

14 Q Do you remember, getting back to the
15 property on Swan Pond Circle, who did the
16 appraisal for you, what company?

17 A I don't remember.

18 Q Okay.

19 A I'm thinking it was either USAA or --
20 because my husband usually deals with that
21 stuff.

22 MR. DAVIS: This is what you've
23 already -- oh, another --

24 THE WITNESS: Yeah.

25 (Marked Exhibit 9.)

1 BY MR. SHERK:

2 Q Ms. Cordell, you've been handed Deposition
3 Exhibit No. 9. I'll represent to you that's a
4 document entitled "Special Warranty Deed."

5 Do you see that?

6 A Yes, I do.

7 Q Is this for the vacation home you've
8 described?

9 A No, this is not. This is for my husband,
10 since he's retired, has just been kind of
11 piddling around the house, and he wanted to try
12 to flip a house. So we bought a house in
13 Kingston to try to flip, but we haven't even
14 started working on it yet. And that's just been
15 recently.

16 Q Where is this house located?

17 A It is located over by -- kind of by the
18 high school area.

19 Q Okay. How much did you pay for this
20 house?

21 A I think \$50,000.

22 Q Okay. And so this is a -- a fixer-upper?

23 A Yes. Very rough, in bad shape home.

24 Q Is your husband handy with tools and
25 carpentry and that kind of thing?

1 A He piddles. I wouldn't say he's a
2 carpenter, but he piddles around. And he's
3 learned a lot over the years, so --

4 Q This is a project for him that he can work
5 on?

6 A Yes.

7 (Marked Exhibit 10.)

8 BY MR. SHERK:

9 Q Okay. Ms. Cordell, you've been handed
10 Exhibit No. 10, and that's a document entitled
11 "Real Estate Deed of Trust."

12 Do you see that?

13 A Yes.

14 Q Okay. This is dated June 15, 2010?

15 A Uh-huh.

16 Q This is on the Swan Pond Circle property;
17 correct? Let me see what you've got.

18 A No.

19 Q Let me see what you've got there.

20 A It's on the Sunset property.

21 Q There we go. That's right. This is in
22 connection with your new property?

23 A Yes.

24 Q Great. How much -- again \$50,000 is what
25 you purchased that for?

1 A Well, it's 41 to 50, but -- is what we
2 financed. We paid, I think it was, 50 because
3 we had to put some money up front.

4 Q You put some up-front money into it?

5 A Yes.

6 Q Okay. Do you intend to make any
7 disclosures to your lender about environmental
8 issues with this property?

9 A We will if it's warranted, yes. Yes.

10 Q Do you have any reason to believe it's
11 warranted?

12 A Probably, yes.

13 Q Okay. Is that -- that's your personal
14 opinion?

15 A That is my personal opinion, yes.

16 Q Is that based on any kind of scientific
17 evidence or study?

18 A Not that I'm aware of.

19 Q Have you had an environmentalist or a
20 scientist of any sort come and inspect the
21 property?

22 A No.

23 MR. DAVIS: Object to the question.
24 Which property?

25 BY MR. SHERK:

1 Q The property that we were just talking
2 about on Sunset Drive.

3 A No.

4 (Marked Exhibit 11.)

5 BY MR. SHERK:

6 Q Okay. Ms. Cordell, this is Deposition
7 Exhibit 11, and this is a Google map search that
8 we did just to locate where this property was.

9 Does this remind you about the
10 location of your new fixer-upper?

11 A Yes.

12 Q Okay. Can you take a look at -- I think
13 it's Exhibit 2, and hopefully you have it.

14 MR. DAVIS: Looks like that.

15 BY MR. SHERK:

16 Q Will you be able to locate that property
17 on Exhibit 2?

18 A I don't believe so because I'm not
19 familiar with the roads up in that area.

20 MR. DAVIS: Let the record reflect
21 that counsel is pointing to Exhibit 2.

22 THE WITNESS: No. I'm -- I'm just
23 not familiar with all the twisty and windy roads
24 in that area.

25 BY MR. SHERK:

1 Q Did you see here on this part of the map
2 it says, "Roane State" right there?

3 A Uh-huh.

4 Q Street?

5 A Yes.

6 Q Do you see on the Google map it's got that
7 same road?

8 A Okay. Yes.

9 Q Does that make you think that your
10 property is in essentially this location right
11 here?

12 A Yes.

13 Q Okay. Can you mark that for me?

14 A I'm not real sure where it's at up there.
15 I hate to -- I don't want to mark something
16 inappropriate.

17 MR. DAVIS: As long as you state that
18 it's approximate, you can go ahead. She likes
19 to be precise.

20 MR. SHERK: I understand that.

21 THE WITNESS: The approximate area is
22 in here, yes.

23 BY MR. SHERK:

24 Q Okay. Great.

25 Now, is that property in or out of

1 the class 1 geographic area?

2 A It's out of the area.

3 Q Okay. Prior to the dike failure on
4 December 22, 2008, did you ever feel that you
5 were being exposed to hazardous materials while
6 living on Swan Pond Circle?

7 A Prior to?

8 Q Yes.

9 A The saying, "Ignorance is bliss," I guess
10 my ignorance was at fault because I didn't know
11 what that plant was. I'd asked, you know, and I
12 was told it's just ash from the coal. So I just
13 kind of said, okay. And that was -- that was
14 that.

15 So, you know, I didn't feel like I
16 was in danger, but it was because I didn't have
17 the knowledge that -- to know that I was in
18 danger.

19 Q So you didn't feel prior to the spill that
20 you were being exposed to hazardous substances?

21 A I didn't know anything about it.

22 Q Do you think now that prior to the spill
23 you had been exposed to hazardous substances?

24 A Yes.

25 Q Prior to the spill, would you have been

1 given any kind of medical examination which
2 would have revealed the presence of hazardous
3 substances in your body?

4 A No.

5 Q I believe you said you were seeking
6 medical monitoring in this case?

7 A Yes.

8 Q Why do you believe you're entitled to
9 medical monitoring?

10 A Because in my personal opinion, it -- the
11 exposure that we have now is totally different
12 than what was there before. The -- the ash is
13 not contained, it's not wet, it's not going to
14 be removed completely out of our environment,
15 and so there's a potential for me and -- and
16 other members of our community to have higher
17 risks than other individuals that don't live
18 close to the site or not into the two areas that
19 have been identified.

20 I think the people that live closest
21 to the plant are the most likely to have medical
22 issues.

23 Q Okay.

24 A That's just my personal opinion. I'm not
25 a doctor, I can't diagnose people. I don't know

1 even what -- what all the conditions are that
2 could come from ash. But I do know that common
3 sense says if you're exposed to that, and these
4 people are not, you are at higher risk.

5 Q What hazardous substances do you believe
6 that you've been exposed to?

7 A Again, I don't know. I don't know.

8 Q Any idea at all?

9 A Just the different things that are in the
10 ash that has been put out on the media.

11 Q Okay. What makes you believe that you
12 have actually been exposed to hazardous
13 materials?

14 A Because of what's in that storage facility
15 or that broken storage area, what's been stored
16 in there. It's got things in there that do not
17 mix with human beings. It's not good for you.

18 Q It's those things that you're not quite
19 sure what they are?

20 A Yes.

21 Q Okay. Do you have any measurements of
22 exposure of hazardous substances in the area
23 where you live?

24 A No.

25 Q Do you believe you were exposed to these

1 hazardous substances in the same amounts?

2 A I can't answer that question.

3 MR. DAVIS: I'm going to object to
4 that question. I don't -- same amounts as what?

5 BY MR. SHERK:

6 Q Have you taken any tests to determine
7 whether you've got harmful substances in your
8 body as a result of contact with fly ash?

9 A I have not.

10 Q How do you believe you have been exposed
11 to these materials?

12 A Just being in our environment.

13 Q And how would they have gotten to you
14 personally?

15 A Through the air, through vehicles driving
16 by.

17 Q Any other way that you can think of?

18 A Not that I can think of now.

19 Q Okay. Have you had the air monitored
20 around your house since the dike failure?

21 A No.

22 Q After the dike failure, did you take any
23 precautions with regard to breathing the air
24 like wearing an air mask?

25 A I did not, no.

1 Q Did you have your children do that?

2 A No.

3 Q Have you suffered any breathing problems
4 since the spill?

5 A No.

6 Q Has your husband?

7 A Not -- I mean he -- he got sick. I can't
8 think of what it's called. He actually got
9 pneumonia this last year and was put in the
10 hospital with it, and he's never had -- as long
11 as we've been married, I can only remember one
12 other time he was deathly ill like that.

13 Q Do you attribute that to him being run
14 down or to the exposure to the ash?

15 MR. DAVIS: Object to the question.
16 It's a compound question.

17 You may answer that, if you can.

18 BY MR. SHERK:

19 Q Do you attribute that to his exposure to
20 fly ash?

21 A I can't answer that. I don't know.

22 Q Do you attribute his pneumonia to just
23 getting generally run down?

24 A Again, I don't think so. I don't know.

25 Q Have your children suffered any breathing

1 problems since the spill?

2 A Not there I'm aware of, no.

3 Q How would vehicles have contributed to
4 your being exposed to hazardous substances?

5 A Just the amount of trucks and traffic and
6 the -- just the -- the digging and the slinging
7 of that stuff and the hauling of it.

8 Q Those activities have created dust?

9 A Yes.

10 Q Is that the way you believe you've been
11 exposed?

12 A Primarily through the air, dust.

13 Q Do you believe you've been exposed by
14 drinking the water?

15 A I have mixed emotions on that. Partially,
16 you know, they say the drinking water meets
17 standards, but I'm not sure I agree with the
18 standards, whatever they are. We drank the
19 water, I filter it, I have a filter on my
20 refrigerator, and I make sure it's filtered.
21 And we buy a lot of bottled water just to try to
22 protect ourselves a little bit more.

23 Q You say you don't think you agree with the
24 standards?

25 A I mean, I just don't believe that there

1 should be an acceptable risk.

2 Q Do you think the public -- sorry.

3 A I don't -- I don't know what those
4 standards are, but I know that -- that has to be
5 a personal decision.

6 Q Do you believe that public health
7 officials may be deceiving you with regard to
8 the quality of the water?

9 A I -- I don't really have a lot of -- I
10 don't think either way about that. I just --
11 there's always a big question mark. There's
12 always -- that question, in my mind, you know,
13 are they really telling the truth, are they not
14 telling the truth, are they -- what -- you know,
15 what is the truth?

16 There's always that question in my
17 mind. Every time my kids go outside, every time
18 my husband goes out and mows the yard, every
19 time I drive down the street, every time my kids
20 are in the pool, there's always that question,
21 are they being exposed to something that they
22 shouldn't be exposed to.

23 Q I may have asked you this, but what is the
24 source of your water?

25 A Harriman Utility Board.

1 Q And you do not have a well?

2 A No.

3 Q Do you believe your contact with the soil
4 has caused you to be exposed to fly ash?

5 A Yes.

6 Q Okay. And do you believe that your
7 contact with soil has caused you to be exposed
8 to a hazardous -- or, yeah, hazardous
9 substances?

10 A Yes.

11 Q In what ways have you been exposed to the
12 soil since the spill?

13 A Walking in the grass, getting it on your
14 feet, carrying it in your house, getting it on
15 your clothes. When you're outside, bringing it
16 in your home, drying your clothes on the line.

17 Q Have you stopped drying your clothes on
18 the line?

19 A Primarily, yes.

20 Q Have you ever had the soil on your
21 property tested for the presence of ash or
22 hazardous substances?

23 A No.

24 Q Do you now avoid eating food grown in the
25 area?

1 A I buy frozen food, I buy meat from -- I
2 buy, like, a beef from out of the county.
3 Normally I keep my freezer full of meat that
4 way.

5 Q So you don't -- you don't buy fresh grown
6 vegetables?

7 A No.

8 Q Is that different than you would do before
9 the spill?

10 A Yeah. We used to do -- like I said, we
11 used to do a garden. I'm nervous about doing
12 that now. We used to -- you know, you'd see
13 people on the side of the road selling tomatoes.
14 I'd stop and buy them. I've not been doing
15 that. I've just been buying what's in the
16 grocery store and making sure I wash it very
17 well.

18 Q Can you tell from the grocery store where
19 the tomatoes came from?

20 A No.

21 Q Has any doctor told you that you need
22 medical screening due to your exposure to
23 hazardous substances arising from the dike
24 failure?

25 A No.

1 Q Have you independently gone to your doctor
2 and requested a screening test of any sort since
3 the spill?

4 A No, I have not.

5 Q Has any doctor ever told you that you are
6 at a significantly increased risk for disease as
7 a consequence of your exposure to fly ash?

8 A No.

9 Q What screening tests are you seeking?

10 A None at this time.

11 MR. DAVIS: You mean for her
12 personally or for the class?

13 THE WITNESS: For me personally, none
14 at this time.

15 BY MR. SHERK:

16 Q What screening tests will you be
17 requesting on behalf of the class?

18 A I would kind of rely on the specialists
19 that are hired to let us know what needs to be
20 screened.

21 Q What are the diseases that you would like
22 to be monitored for?

23 A I'm not qualified to make that -- that
24 determination.

25 Q What diseases are to be monitored for on

1 behalf of the class?

2 A Again, I'm not -- I'm not really qualified
3 to make that determination.

4 Q Do you receive regular medical checkups?

5 A Yes.

6 Q Yearly exams?

7 A Yes.

8 Q As a part of your regular examinations, do
9 you get screening tests of any kind?

10 A No.

11 Q For example, do you get mammograms?

12 A Never had one. Should, but --

13 Q Never had one? Colonoscopy?

14 A No.

15 Q Regular -- do you get chest x-rays?

16 A I have not had one, no.

17 Q Have you ever had an LDCT scan?

18 A I don't know what that is.

19 Q As a part of your regular checkup, do they
20 check your weight?

21 A Yes.

22 Q Do they take your blood pressure?

23 A Yes.

24 Q Do you usually take a blood sample and
25 have it analyzed?

1 A Yes.

2 Q Do they take a urine sample and have it

3 analyzed?

4 A Yes.

5 Q Do they check your cholesterol?

6 A Yes.

7 Q Do they do anything else on a regular

8 basis when you go to your regular exam?

9 A No.

10 Q Have you ever had an EKG as a consequence

11 of having a regular exam?

12 A Yes.

13 Q How did that come about?

14 A It was fine.

15 Q Was there any particular reason for it?

16 A They -- they require us to do extra

17 testing in the military. So our clinic runs

18 tests on us like that up there.

19 Q Have you been required to take a stress

20 test?

21 A I took a -- not for stress stress, but

22 just a heart stress test. I don't remember when

23 I had it. It's been a couple years back, just

24 to set a baseline on my -- where I'm at

25 cardiowise.

1 Q That's when you get on the treadmill and
2 they monitor?

3 A Yes. Put stuff in your body, yes.

4 Q How many of those have you had?

5 A One.

6 Q Have you ever had any breathing tests as a
7 part of a regular checkup?

8 A No.

9 Q Are there any other tests that you are
10 given by your physician for your regular
11 examinations that we haven't talked about today?

12 A Not that I can think of.

13 Q Do you have any -- do you have a heart
14 condition?

15 A No.

16 Q Any kind of breathing condition?

17 A No.

18 Q Okay. Have you ever had either of those
19 conditions?

20 A No.

21 (Marked Exhibit 12.)

22 BY MR. SHERK:

23 Q Ms. Cordell, I'm handing you Exhibit
24 No. 12. I'll represent to you that this is a
25 document that was pulled off the Tennessee

1 Health Department's website regarding the public
2 health assessment.

3 Do you see that document?

4 A Yes.

5 Q Were you -- are you familiar with the fact
6 that the Tennessee Department of Health
7 performed a public health assessment following
8 the spill at the Kingston facility?

9 A I believe so, yes.

10 Q Okay. Do you know what conclusions the
11 Tennessee Department of Health reached in
12 connection with the public health assessment it
13 conducted?

14 A No, not that I can recall.

15 Q Let's turn to page 3 of the public health
16 assessment. Do you see the section down toward
17 the middle of the page that reads,

18 "What are the
19 conclusions in the Public Health
20 Assessment?"

21 A Yes.

22 Q Okay. Let's look at No. 3, the first
23 sentence of which reads --

24 MR. DAVIS: I'm going to object to
25 the question. I mean, you've purported that

1 this document is taken from a website from the
2 Tennessee Department of Health. If you're going
3 to ask her about the validity of these
4 conclusions, I would assume that you would
5 provide a document that has been authenticated
6 and that, you know, would be a document that she
7 might have seen before.

8 BY MR. SHERK:

9 Q If you look at the conclusion No. 3, it
10 reads:

11 "No harm to the
12 community's health is expected
13 from touching the coal ash."

14 Do you see that?

15 A Yes.

16 Q Did I read that correctly?

17 A Yes.

18 Q Is that a conclusion that you had heard
19 before?

20 A I've heard it come across the media, yes.

21 Q Let's look at No. 6, conclusion No. 6.
22 That reads:

23 "Using municipal
24 drinking water from the Kingston
25 and the Rockwood water treatment

1 plants will not harm people's
2 health because the raw and
3 finished water have continuously
4 met drinking water standards."

5 Do you see that?

6 A Yes.

7 Q Does that track what you talked about a
8 little earlier about what you had heard about
9 the drinking water?

10 A Yes.

11 Q Let's skip down to conclusion No. 9. I'll
12 read that for you, part of it. It states:

13 "Cannot conclude whether
14 breathing coal ash from the
15 December 22, 2008, through
16 December 27, 2008, harmed
17 people's health."

18 Did I read that correctly?

19 A Yes. Can I say something on this document
20 that I know?

21 MR. DAVIS: Just wait. Just answer
22 his questions. Okay?

23 THE WITNESS: Okay.

24 (Marked Exhibit 13.)

25 BY MR. SHERK:

1 Q You've been handed Exhibit No. 13,
2 Ms. Cordell. That's a letter dated June 19,
3 2009.

4 Do you see that?

5 A Yes.

6 Q This is a document we received from your
7 counsel, Bates No. 000063. This is a letter
8 from Peyton T. Hairston to Mr. Thomas Cordell;
9 correct?

10 A Correct.

11 Q Do you remember ever seeing this document
12 before?

13 A I believe so, yes.

14 Q This was about the study by the Oak Ridge
15 Associated Universities for health screening for
16 people living near the Kingston facility;
17 correct?

18 MR. DAVIS: Object to the question as
19 to the terms that are used.

20 But you may answer, if you
21 understand.

22 THE WITNESS: Ask the question again.

23 BY MR. SHERK:

24 Q Sure. Is this a letter about the Oak
25 Ridge Associated Universities providing health

1 screening for people living near the Kingston
2 facility?

3 MR. DAVIS: Objection. The letter
4 speaks for itself.

5 BY MR. SHERK:

6 Q You can answer.

7 A Yes, I believe so.

8 Q Were you aware that ORAU was --

9 (Off the record.)

10 BY MR. SHERK.

11 Q Were you aware that ORAU was offering a
12 screening program for those near the Kingston
13 facility?

14 MR. DAVIS: Object to the
15 terminology.

16 THE WITNESS: Yes.

17 BY MR. SHERK:

18 Q Okay. Did you participate in the
19 screening program?

20 A No, I did not.

21 Q Why not?

22 A I just didn't think it would be of value
23 at this time to participate in something like
24 that.

25 Q Okay. Did your husband participate in it?

1 A No.

2 Q Okay. Did you have your children
3 participate in it?

4 A No.

5 Q Looking back, do you wish now that you had
6 participated in it?

7 A No.

8 Q Why is that?

9 A Because everything that's been presented
10 to me is not, to me, a trustable source. I
11 just -- I don't think that it's something that
12 we should have done.

13 Q So you don't think that the Oak Ridge
14 Associated University is a trustworthy source?

15 A I didn't say that. I just said that I
16 don't think that -- to me, it's the fox guarding
17 the chicken coop, kind of.

18 Q You don't think that Vanderbilt University
19 Medical Center is a trustworthy source?

20 A I didn't say that either. I just don't
21 think that that was something we needed to
22 participate in at that time.

23 Q Did anybody tell you that you should not
24 participate in it?

25 A No.

1 Q How would you describe your health as a
2 child?

3 A I was very healthy.

4 Q Okay. Did you have any major illnesses as
5 a child?

6 A No, nothing beyond the normal. I had
7 tonsillitis a lot, got my tonsils out, and that
8 resolved that. Other than that, very healthy.

9 Q No chronic bronchitis or breathing
10 problems?

11 A No.

12 Q Cancer?

13 A No.

14 Q Whooping cough?

15 A No.

16 Q Pneumonia?

17 A No.

18 Q Polio?

19 A No.

20 Q Rubella?

21 A No.

22 Q Scarlet fever?

23 A No.

24 Q Any operations as a child?

25 A Just my tonsils out.

1 Q Broken bones?

2 A Nope.

3 Q Hospitalizations?

4 A Just tonsils out.

5 Q Did your parents smoke when you were a

6 child?

7 A My father did, yes.

8 Q Did he smoke the entire time you were

9 growing up?

10 A Yes.

11 Q How would you characterize the state of

12 your health as an adult?

13 A Very good health.

14 Q And we already talked about your seeing

15 physicians regularly.

16 A Yes.

17 Q Has that been something that you've done

18 your entire adult life?

19 A Yes. Maybe not consistently, every single

20 year, but I -- I do seek physicians' advice when

21 I need it.

22 Q Being in the armed services, do you

23 have -- is health care provided for you?

24 A If you're on active duty, it is. And if

25 you're a guardsman -- full-time guardsman, we

1 have medical insurance to cover our medical
2 expenses.

3 Q All right. Have you ever been
4 hospitalized as an adult?

5 A Just for my -- birthing my children.

6 Q For your three kids?

7 A Yes.

8 Q Have you had surgeries as an adult?

9 A Again, just for birthing my children.

10 Q Okay. As an adult, have you suffered from
11 bronchitis or any breathing problems?

12 A No.

13 Q No cancer?

14 A No.

15 Q No heart conditions or chest pain?

16 A No.

17 Q No viral infections?

18 A No.

19 Q Stomach problems of any sort?

20 A No.

21 Q Pneumonia?

22 A No.

23 Q Liver problems?

24 A No.

25 Q Hepatitis?

1 A No.

2 Q Rheumatic fever?

3 A No.

4 Q Scarlet fever?

5 A No.

6 Q Malaria?

7 A No.

8 Q Diabetes?

9 A No.

10 Q Thyroid problems?

11 A No.

12 Q Are you currently on any drugs or

13 medications?

14 A I take allergy medicine.

15 Q During the course of your adult life, have

16 you ever been on medications for any significant

17 length of time?

18 A No.

19 Q How would you characterize your weight?

20 A I'm --

21 MR. DAVIS: That's not a good

22 question to ask a woman.

23 MR. SHERK: I'm trying to do it very

24 delicately.

25 THE WITNESS: I have normal weight.

1 BY MR. SHERK:

2 Q Has any doctor ever advised you to lose
3 weight or modify your diet?

4 A No.

5 Q Do you drink alcohol?

6 A No.

7 Q Do you smoke?

8 A No.

9 Q Did your father or mother ever suffer from
10 cancer?

11 A No.

12 Q Emphysema?

13 A No.

14 Q Any other kind of lung or respiratory
15 disorder?

16 A My father now has some lung problems, but
17 he's smoked his whole life.

18 Q Did either of your parents have heart
19 disease?

20 A My father has congestive heart failure,
21 just diagnosed with it. But again, he's not
22 taken very good care of himself over the years.

23 Q Do either of your parents have diabetes?

24 A My father has diabetes.

25 Q Okay. Do either of your parents have

1 digestive disorders?

2 A No.

3 Q All right. Let's take a time out here
4 because we're running out of tape.

5 THE VIDEOGRAPHER: This is the end of
6 tape No. 3. Going off the record. The time is
7 1:56.

8 (Recess.)

9 THE VIDEOGRAPHER: On the record.
10 This marks the beginning of tape No. 4. Time is
11 2:10.

12 BY MR. SHERK:

13 Q We're back on the record after a short
14 break.

15 Ms. Cordell, we've been talking in
16 very general terms about your health. Have you
17 ever been diagnosed with a -- an emotional or
18 stress-related problem?

19 A No.

20 Q Are there things in life that caused you
21 to get stressed out?

22 A Everybody gets stressed, but nothing
23 unusual, no.

24 Q Family problems?

25 A No.

1 Q Financial problems, source of stress?

2 A No.

3 Q Problems at work?

4 A No.

5 Q Anything in particular that jumps out at
6 you as a stressor in your life?

7 A I mean, nothing major, no.

8 Q I lost the thread on one small item that
9 we talked about earlier, and that was your small
10 cabin in LaFollette?

11 A LaFollette.

12 Q LaFollette --

13 A Yes.

14 Q -- Tennessee.

15 Tell me about your vacation home.

16 A We purchased it just to get away on the
17 weekends. It's about an hour from our current
18 home, on Norris Lake, which is across the street
19 from the lake, lakeview, and it's just a small,
20 two-bedroom, 900-square foot fixer-upper cabin
21 that we've been working on occasionally on the
22 weekends. And we go up there and spend the
23 weekends sometimes.

24 Q Primarily just for you and your husband or
25 for you and your husband and the kids?

1 A We take the kids up there with us, and
2 sometimes let our other family members use it,
3 so -- it's primarily for our use.

4 Q Do you ever plan to move out there?

5 A No.

6 Q Do you ever plan to move to the
7 fixer-upper house?

8 A No.

9 Q On Sunset Street?

10 A No.

11 Q Since the spill, have you been to the TVA
12 facility?

13 A No.

14 Q Okay. Since the spill, have you been
15 involved in any investigations of what occurred?

16 A No.

17 Q Are you on the Citizens Advisory Committee
18 with respect to the spill?

19 A No.

20 Q Do you know anybody who has been a member
21 of the Citizens Advisory Committee?

22 A No.

23 Q Have you ever heard of the Citizens
24 Advisory Committee?

25 A Yes.

1 Q How so?

2 A Just articles here and there and things
3 have been just put out, just general -- general
4 information.

5 Q Following the time when you received the
6 "no" letter with regard to the repurchase -- or
7 with regard to the purchase of your home, have
8 you had any occasion to communicate with TVA?

9 A Not that I can remember, no.

10 Q So all inquiries to the community outreach
11 center pretty much cut off at that time?

12 A Yes.

13 Q Other than the meetings with counsel and
14 Erin Brockovich that we spoke of this morning,
15 have you attended any other meetings about the
16 spill at the TVA facility?

17 MR. DAVIS: I'm going to object to
18 the form of the question.

19 I believe she spoke about public
20 meetings. She didn't speak about meetings with
21 counsel.

22 MR. SHERK: I meant the meetings
23 where counsel made presentations, so I'll --
24 I'll start again.

25 Q Other than the Erin Brockovich meetings

1 and those meetings you attended that involved
2 counsel immediately after the spill, have you
3 attended meetings regarding TVA and the failure
4 of the dike?

5 A I don't believe I have since I hired my
6 counsel.

7 Q Have you attended any town hall meetings
8 about the situation at TVA?

9 A No.

10 Q Have you made complaints to TVA since the
11 spill?

12 A So before I hired my counsel or after?

13 Q Before you hired your counsel.

14 A Before I called a couple of times and
15 asked them if they were going to fix Hassler
16 Mill Road because it was extremely dangerous to
17 drive on it when the spill first happened. It
18 was like a little dirt road, and my son was
19 driving on it. And a lot of traffic was on that
20 road, so there was potholes. That's the only
21 time I ever called and asked them if they had a
22 plan to fix that road, for safety purposes.

23 MR. SHERK: Let's take a quick time
24 out. Can you hear okay?

25 MR. DAVIS: Let's close the doors.

1 MR. SHERK: Yeah.

2 Q Since hiring counsel, have you made any
3 complaints to TVA?

4 A No.

5 Q At any point in time have you made
6 complaints or comments to the EPA about the
7 Kingston spill?

8 A No.

9 Q At any point in time have you made
10 comments or complaints to TDEC about the spill?

11 A No.

12 Q At any point in time have you made
13 comments or complaints to the Tennessee Health
14 Department about the spill?

15 A No.

16 Q Have you met in person with any
17 representative of EPA, TDEC, or the Tennessee
18 Health Department since the spill?

19 MR. DAVIS: I'm going to object to
20 the compound question.

21 If you can answer, go ahead.

22 THE WITNESS: The only -- only people
23 that we've talked to since the spill happened
24 was the -- that initial environmental assessment
25 individuals that came to our home and asked us

1 questions -- I guess they were medical
2 questions, if we were having any headaches or
3 anything like that.

4 BY MR. SHERK:

5 Q When was this?

6 A That's the only -- it was shortly after
7 the spill.

8 Q Do you remember who those folks were with?

9 A I do not.

10 Q Okay. That's all I have.

11 E X A M I N A T I O N

12 BY MR. SHOCKLEY:

13 Q Good afternoon, Ms. Cordell.

14 A Good afternoon.

15 Q My name's Gary Shockley. I'm an attorney
16 from Nashville, and I'm here today on behalf of
17 one of the defendants in the case you've
18 brought, GeoSyntec Consultants, Inc. And I'm
19 going to ask you some questions, hopefully not
20 the same ones that Mr. Sherk just asked you.
21 And I'll ask you to please do the same thing
22 you've been doing for him, which is listen
23 carefully to my question, let me know if it
24 doesn't make sense to you or if you'd like me to
25 repeat it or rephrase it and I'll be happy to do

1 that.

2 Fair enough?

3 A Yes.

4 Q I believe you told us, ma'am, that you
5 work a regular 40-hour per week; is that
6 correct?

7 A Yes.

8 Q Do you work Monday through Friday?

9 A No. We work -- we work, like, 44 hours
10 one week, and it's like a -- we're off every
11 other Monday. So we work an extended day. We
12 work, like, from 7:00 to 4:30, and then the
13 Monday that we work, we work an eight-hour day.
14 So we're off every other Monday. It's just kind
15 of an abbreviated workday.

16 Q Okay. So --

17 A Workweek.

18 Q So five days in one week, four days the
19 next?

20 A Yes.

21 Q And if I understood you correctly, you
22 generally leave home about 6:00 in the morning?

23 A Yes.

24 Q And you take I-40 to Pellissippi Parkway up
25 to McGhee Tyson?

1 A Yes.

2 Q And that drive takes you about an hour?

3 A About 40 minutes.

4 Q About the same amount of time coming home,
5 or does traffic slow you down?

6 A About the same amount.

7 Q And you exercise at work?

8 A I do.

9 Q You run?

10 A Yes.

11 Q Do you run there at the airport or in the
12 general vicinity, or do you go elsewhere?

13 A We have a track on -- on the facility and
14 a full gym that we're allowed to use.

15 Q Outdoor track?

16 A Yes.

17 Q And about how long are you able to run at
18 work?

19 A I'm required to run a mile and a half
20 within a certain amount of time every year, so I
21 just work on that mile and a half mostly.

22 Q Am I correct that the 134th air refuel
23 wing is over there on the west side of the
24 airport across the tarmac from the passenger
25 terminal?

1 A Yes.

2 Q Is that where you've worked the whole 14
3 years you've been there?

4 A Yes.

5 Q Does the 134th still fly kc 135s out of
6 there?

7 A Yes.

8 Q Is there fuel stored there at the
9 facility?

10 A They have fuel, yes.

11 Q Okay. And do they refuel the tankers
12 there at the facility; in other words, the
13 refueling tankers fill up and then they go and
14 do their air refueling and come back?

15 A They have specialists that work in fuels
16 that deal with the fuels.

17 Q Okay. Now, you mentioned that -- that the
18 case that you're a representative plaintiff in
19 now is the result of a merger of three prior
20 cases.

21 Is that your understanding?

22 A Yes.

23 Q And have you had an opportunity to review
24 the complaints from those prior predecessor
25 cases?

1 A No.

2 Q Do you know if the claims that were
3 asserted in those three cases differ from the
4 claims that are asserted in the current
5 complaint?

6 A No. I would assume they would be the same
7 or similar.

8 Q But you don't know, since you haven't had
9 the opportunity to go back and look at them?

10 A Right.

11 Q I believe you told Mr. Sherk this morning
12 that you don't -- you don't personally know the
13 other eight people who are serving as
14 representative plaintiffs in this case?

15 A That's correct.

16 Q And again, if I understood you, you can
17 read their addresses just like I can, but you
18 don't know where those houses are located?

19 A No.

20 Q Do you know which of the three classes
21 those other plaintiffs belong to?

22 A They're in class 1, and they are medical
23 monitoring.

24 Q They're in class 1 and medical monitoring?

25 A Yes.

1 Q Are all of the named plaintiffs in medical
2 monitoring?

3 A On the -- on -- on the Complaint, yes.

4 Q Is it your understanding that all class
5 members are seeking medical monitoring?

6 A No.

7 Q Which ones are seeking medical monitoring?

8 A The ones in the zoned area, the class 1
9 zoned area would be seeking medical monitoring.

10 Q Do you know if any of the members of the
11 current class have previously asserted claims
12 for personal injury?

13 A I don't know.

14 Q Do you know if any members of the current
15 class have previously asserted claims for
16 emotional distress?

17 A I do not know.

18 Q Have you missed any work since
19 December 22, 2008, due to the spill?

20 A No.

21 Q Have you been docked any time for being
22 late due to the spill?

23 A No.

24 Q Have you ever spent the night away from
25 home due to the spill or its effects?

1 A No.

2 Q How many nights, altogether, would you
3 estimate that you have spent the night away from
4 home in the last 12 months? Let me see if I can
5 help.

6 You mentioned a couple weeks where
7 you had gone to visit family?

8 A Yes.

9 Q And you mentioned, if I understood you
10 correctly, that you had taken some weekend
11 trips. I'm just trying to get a general idea
12 whether you're gone 10 nights a year or 50
13 nights a year or somewhere in the middle?

14 A Let's say myself, just for this year, I
15 spent maybe 30 days.

16 Q Do you ever travel for work?

17 A Yes. Some of that's work travel.

18 Q And that includes overnight travel?

19 A Yes.

20 Q Anywhere in particular that you go on a
21 regular basis for work?

22 A Not on a regular basis. Usually
23 conferences, trainings.

24 Q When was the last time that you think you
25 were in the water, the Emory, the Clinch, or

1 Watts Bar?

2 A It was some -- two summers ago we went to
3 our Sunday school party on the lake.

4 Q And before that?

5 A Would have been the year before.

6 Q So twice since 2007?

7 A Probably, yes.

8 Q Do you know how many -- how many acres
9 altogether your property contains there at 1346
10 Swan Pond Circle?

11 A It's -- we have a total of almost five
12 acres including the lot down on the bottom.

13 Q Okay. So that's both the lot that your
14 husband's mother lives on if I understand it?

15 A Yes.

16 Q And the one where your family lives?

17 A Right. Correct.

18 Q Is it your understanding that all of those
19 family members are part of the class that you're
20 seeking to represent?

21 A Yes.

22 Q You mentioned that your husband and your
23 son mow the yard. Do you have any contractors
24 or helpers who work on the yard?

25 A No.

1 Q How about on the house?

2 A No.

3 Q One who regularly does maintenance or

4 other work on the house?

5 A No.

6 Q Other than your husband, I guess?

7 A My husband.

8 Q You mentioned that the Air Force requires

9 you to run a mile and a half, and I bet there's

10 a time limit on that as well?

11 A Yes.

12 Q And how often do you have to qualify

13 physically?

14 A Once a year we qualify.

15 Q And has that been true the entire time

16 you've been in the guard?

17 A Yes.

18 Q And you've been in the guard since you

19 left active service?

20 A I had a small break when we were in Myrtle

21 Beach, but it was only until I gave birth to my

22 son, and then they let me come in. They

23 wouldn't let me go straight in because I was

24 expecting.

25 Q And that probably didn't feel like much of

1 a break, I'm guessing?

2 A No, not much.

3 Q So you've been a member of the guard for
4 15 years?

5 A Yes.

6 Q And you've qualified physically every
7 year?

8 A Yes.

9 Q And what else are you required to do in
10 addition to the running portion of it? Is there
11 a strength part as well?

12 A We have to do -- the test requires us to
13 do a set amount of sit-ups and push-ups, men's
14 push-ups, within -- within a timed period, and
15 then you have minimums you have to meet. And,
16 of course, you always try to max those out so I
17 can get that healthy mark on your -- so I've
18 never failed one.

19 Q All right. And when you take the -- the
20 physical conditioning test, do you also receive
21 a physical at the same time?

22 A No.

23 Q Just the PT test?

24 A Yes.

25 Q And the physical is separate?

1 A Right. With the guard, since we don't
2 have a full-fledged medical facility, they
3 require us to go to our own physicians for
4 physicals, and every five years we report to the
5 clinic for a physical, and we bring any
6 documentation in between that time to the clinic
7 for doctors to review so they make sure we stay
8 healthy.

9 Q Okay. So you see your personal physician
10 annually as a guard requirement, and then every
11 five years you have to go see a military
12 physician?

13 A Right. The clinic up there, it's just a
14 small clinic and they have doctors on staff only
15 on the weekends that review all of our medical
16 requirements. And if they have questions on
17 things, we need to bring notes, letters, from
18 our regular physician to them or any specialist
19 we might be seeing for high blood pressure or
20 any of those issues we might have, we have to
21 report that to our medical clinic so they can
22 make sure that we are physically fit enough to
23 deploy.

24 Q And who is the physician that you see,
25 your personal physician that you see annually?

1 A Scott Davis, Oak Ridge ped -- or Oak Ridge
2 Family Physicians office.

3 Q All right. And when was the last time you
4 saw an Air Force or reserve physician for the
5 five-year checkup?

6 A We're supposed to go on our birthday
7 month, which mine's in February. But they
8 changed the requirements just this last year so
9 I didn't have to go up in February. I believe
10 it was the year prior to that.

11 Q Okay.

12 A But I'm not 100 percent sure on that.

13 Q All right. So you would have seen -- you
14 would have seen one of those physicians how many
15 times since December of 2008?

16 A I think twice.

17 Q You mentioned your concerns about exposure
18 to ash.

19 Have you seen ash on your property,
20 things that you visibly can see and identify as
21 coal ash?

22 A No. I mean, I can't tell if it's -- I
23 mean, I'm not an expert to be able to tell if
24 it's coal ash or not. I suspect, yes.

25 Q What -- what have you seen that you

1 suspect is coal ash?

2 A Well, there's black gunk all the way the
3 outside of my house, and when you go to other
4 communities, that doesn't exist. There's dust
5 inside my house. I have to vacuum my floors
6 every single day to make sure that -- you know,
7 we're trying to keep it cleaned up as best as
8 possible. There's dust all over the outside.
9 It wasn't that bad before the spill. I never
10 had to sweep my floors every single day before
11 the spill. And now I -- it actually got so hard
12 on us, we went to go buy one of those silly
13 little Roombas to sweep it every day when we're
14 not home to keep it cleaned up.

15 Q And that's the robot vacuum cleaner?

16 A Yes. And it runs every single day, and it
17 gets emptied every day, and it's got a lot of
18 stuff in it every day.

19 Q I bet the Yorkies have fun with that.

20 What about the outside? Have you
21 done anything additional to maintain your house
22 on the outside?

23 A Since the spill, we have not.

24 Q Other than your -- your visits to
25 Dr. Davis, if I've got -- if I'm remembering the

1 name right, have you had reason to seek any
2 other medical treatment since December of '08?

3 A No.

4 Q You mentioned that you have a filter in
5 your refrigerator for water. Did you have that
6 before December 22 of 2008?

7 A Yeah. Most refrigerators come with them
8 now, so yes.

9 Q That's something that was there even
10 beforehand?

11 A Yes. Yes.

12 Q Does your husband wear a mask when he mows
13 the lawn?

14 A No. It's too hot.

15 Q How about your son?

16 A No.

17 Q Do you know where the drinking water
18 intake is for the Harriman Utility District?

19 A There's a couple miles downstream is all I
20 know. I don't know where it is physically.
21 I've never been there.

22 Q When you say downstream, closer to the
23 Kingston Fossil Plant or farther from the
24 Kingston Fossil Plant?

25 A I think it's further away, but I'm not

1 sure. Again, I'm just guessing on that. I'm
2 not sure.

3 Q Did -- again, to make sure I understood
4 your testimony, you, as Patricia Cordell, are
5 not personally asking for any medical monitoring
6 at this time?

7 MR. DAVIS: Objection to the form of
8 the question.

9 I don't believe that was her answer.

10 THE WITNESS: No. I believe we need
11 to have medical monitoring for the group and my
12 family and myself for long-term monitoring.

13 BY MR. SHOCKLEY:

14 Q Okay. So you are seeking --

15 A Yes.

16 Q -- for yourself at this time?

17 A Yes.

18 Q Okay. You mentioned that you have health
19 care as a member of the guard. Do you have
20 Champus or Tri-Care?

21 A Blue Cross.

22 Q Blue Cross, okay.

23 And you said that the military clinic
24 requires extra tests for us. What -- what does
25 the military require in addition to the physical

1 training requirements you've already told me
2 about?

3 A When we -- when they were running a more
4 manned clinic, we would go up there annually and
5 they would run us through the gamut, you know,
6 eye exam, they would do blood work, they would
7 do the EKGs, you know, OB/GYN requirements. But
8 they've -- over the, probably, last four or five
9 years, they've toned back with us because they
10 know that we're a little bit different than
11 active duty in that we don't have a full-fledged
12 clinic anymore. And they really rely on our
13 physicians and us filling out questionnaires
14 annually on the status of our health.

15 Q Is there a checklist that -- that the
16 military gives to your physician or that you
17 take to your physician to make sure they're
18 collecting all the information?

19 A No.

20 Q Does your husband smoke?

21 A No.

22 Q Has he ever smoked?

23 A Years ago, yes.

24 Q When did he quit?

25 A Probably '90s, '91, '92.

1 Q Did you receive any nuclear, biological,
2 or chemical warfare training when you were on
3 active duty or since?

4 A Yes.

5 Q Where did you receive your NBC training?

6 A We did it annually.

7 Q And what all was involved?

8 A It's a computer-based training that we
9 have to take, and then we have to take hands-on
10 training on how to, of course, don all the
11 equipment, put it on, and how to wrap things if
12 we needed to from getting contaminated, how to
13 check the M-line paper and MA tape and what to
14 look for. So we get that as a refresher
15 training every year.

16 Q Even as a guardsman?

17 A Everybody does.

18 Q Okay.

19 A Every guardsman because we're all what
20 they call could be tasked to deploy. We're all
21 in what they call a mobility slot, which means
22 you could deploy and you need to be prepared.

23 Q When you visited your physician, your best
24 guess was twice since December of 2008, have you
25 discussed your concerns about ash exposure with

1 your physician?

2 A No.

3 Q You mentioned that you take allergy
4 medicines. Do you have year-around allergies or
5 is that seasonal?

6 A I take year-around allergy medication.

7 Q And prescription or over the counter?

8 A Prescription.

9 Q Do you remember what it is?

10 A It's Alegra-D.

11 Q What are you allergic to?

12 A They don't know. It's just -- since we
13 moved here, I've had problems.

14 Q The allergy capital of the world?

15 A Yes.

16 Q So it's something in the air, pollen,
17 something?

18 A I guess.

19 Q And which physician prescribes that for
20 you?

21 A Dr. Davis.

22 Q You mentioned that you don't smoke. Have
23 you ever smoked?

24 A Yes.

25 Q When did you smoke?

1 A I quit in 1988, '89, before I got
2 pregnant.

3 Q And when did you start?

4 A Probably when I went in active duty
5 military, I guess, '85, '86 so --

6 Q You mentioned that you think the traffic
7 and the trucks spread ash to your property. Is
8 that an accurate statement?

9 A Yes.

10 Q Describe the traffic for me that you think
11 is causing ash to reach your property.

12 A Just all the movement of the -- of the ash
13 itself, you know, dump trucks being filled with
14 it, trains being filled with it, those big,
15 heavy equipment bulldozers pushing it around and
16 moving it around. It's --

17 Q Do the dump trucks come past your house?

18 A Yes.

19 Q How many a day, currently?

20 A I don't know. I can't -- I haven't
21 counted them.

22 Q Sure. When you're there, can you give me
23 an estimate?

24 A I don't know.

25 Q Do the trucks still run after you get home

1 at night, 5:30 or 6:00 at night?

2 A I don't know. I haven't really --

3 Q Do they start running before you leave
4 around 6:00 in the morning?

5 A Sometimes they have, yes.

6 Q The trains -- and I apologize, my
7 geography isn't as good as it should be. Is
8 your house near the tracks?

9 A Fairly close, yes.

10 Q About how far, estimate?

11 A Oh, the train tracks are right there at
12 the -- you know, stop sign, and kind of right
13 there. So --

14 Q Within a mile?

15 A I'd say within a mile, yes.

16 Q The trucks that go past your house, are
17 they covered, the bed of the truck?

18 A I can't guarantee all of them are. Some
19 of them are, yes.

20 Q And what about the -- what about the train
21 cars? Are they covered?

22 A I haven't really paid attention, but
23 they're supposed to be.

24 Q Okay. And the trucks that go past your
25 house, are they hauling ash or are they hauling

1 other construction materials? Do you know
2 what's in them?

3 A I do not know.

4 Q Has the truck traffic changed at all over
5 time since December of '08?

6 A I believe it has, yes.

7 Q How so?

8 A Initially they were -- there was trucks
9 whizzing by my house -- I can't begin to guess
10 how many. I mean, I used to, on Sunday morning,
11 just drinking coffee, looking out my front
12 window, and in a matter of a couple of minutes,
13 you know, it was 15, 16 trucks I counted in just
14 a matter of a couple minutes. So it was pretty
15 much nonstop traffic.

16 Of course, that's tapered off a
17 little bit, but there sure are a lot of trucks
18 going by my house, a lot more than ever before.

19 Q How many days a week are there trucks
20 there? Seven days a week, five days?

21 A I'd say pretty much seven days a week.
22 Maybe they've veered off a little bit on Sunday
23 just recently.

24 THE VIDEOGRAPHER: Off the record for
25 a minute.

1 (Off the record.)

2 THE VIDEOGRAPHER: On the record.

3 Here marks the beginning of tape No. 5.

4 BY MR. SHOCKLEY:

5 Q Ms. Cordell, before we took a short break
6 there, you were describing for me the frequency
7 of the trucks and -- and how that had changed
8 over time. Did you finish your answer, ma'am?
9 Is there anything else we need to add to that?

10 A I don't know TVA's work schedule. You
11 know, I don't sit there and -- and watch their
12 house with binoculars -- watch their facility
13 with binoculars or something, but I do know you
14 can hear noise over there regularly most of the
15 time, even at night.

16 And the trucks are very heavy as
17 well as other equipment.

18 Q Okay. And the trucks that -- that you
19 think are spreading ash or dust to your
20 property, is that coming from the bed of the
21 truck? Is it coming off the road? Do you know
22 physically how that's happening?

23 A No, because I'm not an expert on how that
24 would be spread, but my common sense tells me
25 it's coming from everywhere on the truck.

1 Q And have you had an opportunity to take
2 pictures or video of those trucks --

3 A No.

4 Q -- or the dust coming from them?

5 A No.

6 Q Do you know of anybody else who's done
7 that?

8 A No.

9 Q You also mentioned trains. How often do
10 trains run that you think affect your property
11 with the dust?

12 A I don't know their schedule. I just
13 don't --

14 Q And those trains, that would include the
15 trains bringing in coal to the Kingston plant,
16 wouldn't it?

17 A Sure.

18 Q As well as any trains that are taking ash
19 or other materials away?

20 A Yes.

21 Q And that was true even before December of
22 2008?

23 MR. DAVIS: Object to the question.
24 I believe it was a compound question.

25 THE WITNESS: The -- prior to the

1 December 2008 spill, there were trains coming
2 into the facility with coal, yes.

3 BY MR. SHOCKLEY:

4 Q Okay. As I mentioned, the company that I
5 represent is GeoSyntec Consultants. To your
6 knowledge, have you ever spoken with anyone from
7 GeoSyntec Consultants?

8 A Not to my knowledge, no.

9 Q Do you know what GeoSyntec Consultants did
10 at the Kingston Fossil Plant?

11 A Just from the documentation that I read,
12 just in engineering work, contract and
13 engineering work.

14 Q Do you know when that work was done?

15 A Not right offhand, no. I'd have to read
16 and see.

17 Q Am I correct your husband retired from the
18 military?

19 A That's correct.

20 Q And what did he do when he was with the
21 Air Force?

22 A He was a vehicle mechanic for several
23 years. Then he transferred over to a unit --
24 the unit training manager for -- for his small
25 unit. He was not in the 134th. He was in the

1 228 combat communications unit.

2 Q And has he worked anywhere else on a
3 full-time basis since he took his military
4 retirement?

5 A No.

6 Q You said you had never been involved in a
7 lawsuit before. Have you ever given a
8 deposition before?

9 A No.

10 Q Have you ever testified in court for any
11 reason?

12 A No.

13 Q To your knowledge, have you ever been a
14 member of a class action before?

15 A No.

16 Q You told us that you attend First Baptist
17 Church?

18 A Kingston First Baptist.

19 Q Do you sing in the choir or hold any
20 positions within the church?

21 A No.

22 Q Do you belong to any other organizations,
23 community groups, labor unions, political
24 associations, anything like that?

25 A No, no.

1 Q Have you ever done so since the time you
2 moved back to Kingston or moved to Kingston?

3 A Have I been involved in political groups
4 or labor organizations, no.

5 Q Any kind of community group?

6 A My previous church I was extremely
7 involved with running children's programs,
8 Vacation Bible School, Awanas -- or not Awanas,
9 but team camp program. My husband and I oversaw
10 that program at our previous church.

11 Q And how long ago was that?

12 A Probably three years, when we moved to
13 Kingston First Baptist.

14 Q All right. You've summarized for us your
15 education and told us about some of the training
16 you've gotten through the community college in
17 the Air Force. Have you had any training in
18 engineering?

19 A No.

20 Q Have you had any training in medicine?

21 A No.

22 Q Any training in environmental sciences of
23 any kind?

24 A No.

25 Q Do you know when the house you're

1 currently living in, when it was constructed?

2 A Early '80s -- late '70s, early '80s, I
3 believe is when my husband moved in because he
4 was still in high school when they moved in the
5 house.

6 Q Do you know if there's any asbestos tile
7 or roofing materials or pipe wrap in the house?

8 A I don't believe so.

9 Q You told us a little bit about your house
10 and the pool. Are there any other out buildings
11 on your property in addition to the house?

12 A We have a garage.

13 Q Is that detached?

14 A A detached garage, yes.

15 Q Tell me about that. How big is it?

16 A I'd say it's a little bigger than a
17 two-car garage.

18 Q Do you use that for the automobiles or for
19 storage or for other purposes?

20 A Storage.

21 Q What all is stored in there?

22 A Lawn mowers, lawn equipment, tools, just
23 average garage things.

24 Q You said you have central air
25 conditioning. Does the house also have central

1 heat?

2 A Yes.

3 Q Do you use a wood stove?

4 A No.

5 Q Have you ever had a wood stove in the
6 house?

7 A No.

8 Q I believe you've answered this for me.
9 But is there anyone other than you, your
10 husband, and your children who regularly work on
11 your house or yard?

12 A No.

13 Q You do some flowers?

14 A Flowers, yes.

15 Q Do you use agricultural chemicals on your
16 flowers or in the garden, Seven and Round-Up or
17 anything?

18 A Just a little bit of Round-Up to control
19 some of the grass that grows in.

20 Q Who does that work? Your husband or you,
21 both of you?

22 A Both of us.

23 Q Have you ever had any long-term guests at
24 your home, people who stayed a week or longer?

25 A I do. I'm a foster parent, so I have

1 children in my home.

2 Q Okay. Tell me about -- tell me about in
3 your role as a foster parent, when you have
4 children, how often does that happen?

5 A Pretty much I normally have children in my
6 home. I have three right now, and they've only
7 been with me since February. And I just -- I'm
8 their surrogate mom until their parents get
9 their -- their act together.

10 Q Okay. And I take it as a foster parent,
11 you have the children temporarily but
12 indefinitely.

13 Is that an accurate statement?

14 A Yeah, I think so. Temporarily could be
15 six months to a year. And then if the parent --
16 parental rights are terminated, then they get
17 put up for adoption and go to another home.

18 Q And how long have you been serving in the
19 role as a foster parent?

20 A Two years.

21 Q And how many -- you said you have three
22 currently?

23 A Uh-huh.

24 Q How many children have you fostered?

25 A I've had six total, two -- two sets of

1 siblings.

2 Q Okay. And that work is done through the
3 Department of Children's Services?

4 A Yes. I'm licensed through Helen Ross
5 McNabb out of Knoxville.

6 Q Okay. And have you had any particular
7 training or testing, inspections, that sort of
8 thing you have to go through in your role as a
9 foster parent?

10 A Yes. They have to license you, and you
11 have to go through all their trainings, their
12 required trainings, and they come in and check
13 your home and make sure you have fire
14 extinguishers and -- and smoke alarms and square
15 footage requirements, beds for the children, all
16 the things on their list. You have to make sure
17 that you can provide a safe environment for the
18 children.

19 Q Okay. And is that a one-time thing, or do
20 they come back periodically to check?

21 A They come back periodically and reevaluate
22 your home.

23 Q When is the last time they did that?

24 A Probably January.

25 Q And is that done by the folks from Helen

1 Ross McNabb, or is that people from the State
2 that do that?

3 A Helen Ross McNabb.

4 Q You said you have three children now?

5 A Yes.

6 Q And how long have these three been there?

7 A Since February.

8 Q February of 2010?

9 A Yes.

10 Q Okay. And the others that you had --

11 A I had them.

12 Q -- when did they leave?

13 A They left in December, first week of
14 December.

15 Q Okay. So you had -- you had the first
16 three who were there through December, and then
17 in February you had the current three move in?

18 A That's correct.

19 Q Can you tell me their ages?

20 A 5, 2, and 18 months.

21 Q Okay. You stay pretty busy?

22 A Yes.

23 Q Are there people who visit you frequently
24 other than your family, your mother-in-law,
25 obviously. Are there other people who are

1 regularly at your house?

2 A Just family.

3 Q If I understood you correctly,
4 Ms. Cordell, you don't have an opinion today as
5 to the fair market value of your property, do
6 you?

7 A No, I do not.

8 Q And is it also accurate to say that you
9 don't have an opinion as to how much that value
10 has been affected by the Kingston ash spill?

11 A Right. I'm not an expert, so I wouldn't
12 be comfortable even guessing on that.

13 Q Okay. Do any of the people who live in
14 your house have asthma?

15 A No.

16 Q Have you or any of your family members
17 ever been diagnosed with chronic obstructive
18 pulmonary disease, your immediate family, not
19 your father?

20 A No.

21 Q Do you personally have any vision or
22 hearing problems?

23 A No.

24 Q Have you ever had any neurological
25 problems?

1 A No.

2 Q Do you know how many people are in the
3 class that you seek to represent?

4 A Quantity of people?

5 Q Yes, ma'am.

6 A No.

7 Q Have you made any investigation of that?

8 A No.

9 Q Do you know how many of those people have
10 suffered or claimed to have suffered personal
11 injury as a result of the Kingston ash spill?

12 A No.

13 Q Who, other than yourself and your
14 immediate family members, has knowledge of the
15 problems that you've had as a result of the
16 Kingston ash spill?

17 A Can you give me more specifics, what
18 problems you're talking about?

19 Q Sure. I'm just trying to find out if
20 there are other people, friends, neighbors,
21 clergymen, counselors, anybody else who has
22 knowledge of the problems that Patricia Cordell
23 has had since December 22 of 2008.

24 A I haven't really discussed it with any of
25 those people.

1 Q Okay. Do you have any photographs,
2 videotapes, or other documentary evidence
3 regarding the harm you've suffered that you have
4 not previously shared with Mr. Davis or Ms. Fry?

5 A I don't have any videos. I don't -- what
6 kind of harm are you talking about? I mean, are
7 you talking about ash on my property photos?

8 Q The harm that you're suing my client for.

9 A No.

10 Q Do you keep any kind of log or diary,
11 calendar?

12 A I keep a calendar with appointments and
13 stuff on it.

14 Q Is there anything on that calendar related
15 to the problems that you've had since
16 December 22 of 2008?

17 A No.

18 Q How about Mr. Cordell, does he keep any
19 kind of log or diary that would have information
20 related to ash spill and ash problems?

21 A No.

22 Q Ms. Cordell, I believe that's all I have.
23 Thank you very much.

24 A Thank you.

25 ///

1 EXAMINATION

2 BY MS. MORETZ:

3 Q Ms. Cordell, my name is Denise Moretz, and
4 I just have a few questions. I represent
5 WorleyParsons.

6 Have you ever had any conversations
7 with somebody you believe who was employed by
8 WorleyParsons?

9 A No.

10 Q Do you have any information as to what, if
11 any, role WorleyParsons has -- had or has at TVA
12 at the Kingston facility?

13 A I'm sorry, ask the question again.

14 Q Do you have any specific information about
15 WorleyParsons and -- and work that they may have
16 done at the TVA Kingston Steam Plant?

17 A Not specific. I know they were contracted
18 out by TVA to, again, do engineering type work.

19 Q Okay. And in -- where did you learn that
20 information?

21 A Just from the documentation I've read
22 and -- and the case files.

23 Q What specific documentation are you
24 talking about --

25 A Just the --

1 Q -- that you read?

2 A Just the stuff that's online, that's
3 posted online, some of the history information
4 that's out there.

5 Q Okay. And specifically do you recall what
6 sites you were looking at where you saw the
7 references to WorleyParsons?

8 A No. No.

9 Q Okay. That's all the questions I have.
10 Thank you.

11 MR. DAVIS: We have none.

12 MR. SHERK: One second. I just have
13 two questions.

14 MR. DAVIS: We're going to hold you
15 to that.

16 F U R T H E R

17 E X A M I N A T I O N

18 BY MR. SHERK:

19 Q Ms. Cordell, have you received a report
20 from Helen Ross McNabb regarding the safety of
21 foster children in your home?

22 A A report?

23 Q Yeah.

24 A Can you be any more specific about what
25 kind of report?

1 Q Have they done any evaluation in your home
2 to determine its safety for foster children?

3 A Just the -- just the normal evaluation
4 they would do for any other home.

5 Q And have you expressed any concern to
6 Helen Ross McNabb or the Division of Family
7 Services about the presence of ash on your
8 property as it might pertain to foster children
9 in your home?

10 A No.

11 Q No more questions.

12 MR. DAVIS: Okay.

13 THE VIDEOGRAPHER: This concludes the
14 deposition of Patricia Cordell, Volume 1.
15 Number of tapes used was five. Going off the
16 record. Time is 3:01.

17 (Deposition session concluded at 3:01 P.M.)

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1 REPORTER'S CERTIFICATE

2 I certify that the witness in the
3 foregoing deposition, PATRICIA CORDELL, was by
4 me duly sworn to testify in the within-entitled
5 cause; that the said deposition was taken at the
6 time and place therein named; that the testimony
7 of said witness was reported by me, a Shorthand
8 Reporter and Notary Public of the State of
9 Tennessee authorized to administer oaths and
10 affirmations, and said testimony, pages 1
11 through 212 was thereafter transcribed into
12 typewriting.

13 I further certify that I am not of
14 counsel or attorney for either or any of the
15 parties to said deposition, nor in any way
16 interested in the outcome of the cause named in
17 said deposition.

18 IN WITNESS WHEREOF, I have hereunto
19 set my hand the 31st day of August, 2010.



25 Katherine Gale, CSR, LCR #420
My commission expires: 2/27/2012

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E R R A T A

I, PATRICIA CORDELL, having read the foregoing deposition, Pages 1 through 212, taken August 19, 2010, do hereby certify said testimony is a true and accurate transcript, with the following changes, if any:

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PATRICIA CORDELL

Notary Public

My commission expires: _____

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In The Matter Of:
George Chesney, et al. v.
Tennessee Valley Authority, et al.

Jewel Francis
September 3, 2010

Vowell & Jennings, Inc.
214 Second Avenue North
Suite 207
Nashville, Tennessee 37201
615-256-1935



Original File 090310A.TXT
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

GEORGE CHESNEY; VIRGIL)
MAINES; WILLIAM GADDIS;)
DEBRA BURNUM; PATRICIA)
CORDELL; JAMES G.)
WORLEY; JEWEL H.)
FRANCIS; DONALD W.)
SIMON; and BARBARA M.)
PHILLIPS,)
)
Plaintiffs,)
)
vs.) CASE NO. 3:09-CV-09
)
TENNESSEE VALLEY)
AUTHORITY; GEOSYNTEC)
CONSULTANTS, INC.; and)
WORLEYPARSONS)
CORPORATION,)
)
Defendants.)
_____)

DEPOSITION OF:

JEWEL FRANCIS

Taken on Behalf of the Defendants

September 3, 2010

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1 The deposition of JEWEL FRANCIS,
2 taken on behalf of the Defendants, on the 3rd
3 day of September, 2010, at 8:30 A.M., in the Law
4 Offices of Cooley, Cooley & McFarland, 1021
5 Waterford Place, Kingston, Tennessee, for all
6 purposes under the Tennessee Rules of Civil
7 Procedure.

8 The formalities as to notice,
9 caption, certificate, et cetera, are waived.
10 All objections, except as to the form of the
11 questions, are reserved to the hearing.

12 It is agreed that Katherine Gale
13 being a Notary Public and Court Reporter for the
14 State of Tennessee, may swear the witness and
15 that the reading and signing of the completed
16 deposition by the witness are reserved.

17
18
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22
23 JEWEL FRANCIS
24 Was called as a witness, and after having been
25 first duly sworn, testified as follows:

1 EXAMINATION

2 BY MR. SHERK:

3 Q Can you state your name for the record?

4 A Jewel Francis.

5 Q And what is your current address?

6 A 132 Island Lane, Kingston, Tennessee.

7 Q Ms. Francis, my name is John Sherk, I'm a
8 lawyer with Shook, Hardy & Bacon, and I'll be
9 representing the Tennessee Valley Authority
10 today. I'll be asking you most of the
11 questions.

12 Let me begin by asking you this.
13 Have you had your deposition taken before?

14 A Yes.

15 Q Was it a long time ago?

16 A Years ago, sir.

17 Q So would it be helpful if I gave you kind
18 of an overview of the do's and don'ts of
19 depositions?

20 A Yes, sir.

21 Q Okay. To begin with, you'll have to give
22 a verbal response to every question, as you have
23 done.

24 Okay?

25 A Yes.

1 Q Head nods don't work so well on the
2 transcript which our court reporter is taking
3 down for us.

4 Okay?

5 A Yes, sir.

6 Q You'll notice that Katherine, our court
7 reporter, is making note of everything that we
8 say this morning, so we'll have to be careful
9 not to speak over each other.

10 All right?

11 A Yes, sir.

12 Q If you'll allow me to complete my question
13 before you respond, that would be the best.

14 All right?

15 A Yes, sir.

16 Q I think you got that down already.

17 A Yes.

18 Q If you don't understand my question,
19 please just let me know, and I'll be happy to
20 rephrase it for you.

21 Okay?

22 A Yes.

23 Q Just answer the questions to the best of
24 your ability.

25 All right?

1 A Yes.

2 Q Are you feeling okay this morning?

3 A Yes, sir.

4 Q Do you feel capable of giving full,
5 accurate and truthful testimony?

6 A I do.

7 Q Okay. Are you on any medications this
8 morning that would impair your ability to give
9 full and accurate testimony?

10 A No, sir.

11 Q All right. Great.

12 Did you review any materials in
13 preparation for today's deposition?

14 A Yes.

15 Q What would those be?

16 A I had a meeting yesterday afternoon with
17 Brantley and Mr. Davis, and we looked over a few
18 documents.

19 Q Very good. Do you remember what those
20 documents were?

21 A The Complaint and two maps, I believe, of
22 the area of the ash spill.

23 Q Great. Anything else that you recall?

24 A Some report. I can't remember the name of
25 the report or the exact content.

1 Q What was the report concerning?

2 A I'm sure it was relevant to the ash spill.

3 Q Was it a report of testing that had been
4 done?

5 A I'm not certain, but I believe so.

6 Q Okay. Did the report in any way relate to
7 your property?

8 A I'm not sure of that.

9 (Marked Exhibit 1.)

10 BY MR. SHERK:

11 Q All right. You get the fancy one,
12 Ms. Francis, with the sticker on it?

13 You've been handed Exhibit 1,
14 Ms. Francis, and I'll represent to you this is
15 the consolidated class action complaint.

16 Is this the document that you had
17 the opportunity to review yesterday?

18 A Yes, sir.

19 Q Is that the first time you've seen this
20 document?

21 A Yes, sir.

22 Q Okay. So you didn't provide any input
23 into the preparation of this document then?

24 A Not to my knowledge.

25 MR. DAVIS: Again, I'm going to

1 interpose an objection that the map attached to
2 the document is not the map originally attached
3 to the Complaint as filed.

4 (Marked Exhibit 2.)

5 BY MR. SHERK:

6 Q Ms. Francis, you've been handed Deposition
7 Exhibit 2, and I'll represent to you this is a
8 document entitled "Plaintiff's Responses to
9 TVA's First Set of Interrogatories to George
10 Chesney, et al."

11 Do you see that document?

12 A Yes, sir.

13 Q Did you review this document in
14 preparation for today's deposition?

15 A Briefly, yes, sir.

16 Q Okay. And the reason that I present you
17 with these Exhibits 1 and 2 is because we may
18 refer to them in some questioning. And if it
19 would be helpful, please feel free to do so.

20 Okay?

21 A Yes.

22 Q You met with counsel in preparation for
23 today's deposition, you testified?

24 A Yes.

25 Q Just on the one occasion, yesterday?

1 A No, sir.

2 Q How many other meetings did you have with
3 your counsel?

4 A I met with him one other time.

5 Q When was that?

6 A I really don't recall, but it was several
7 months ago.

8 Q Would that have been with the counsel that
9 are seated by you today?

10 A Yes.

11 Q Did you talk to family members in
12 preparation for today's deposition?

13 A Yes, sir.

14 Q Who did you speak with?

15 A I have three children. I told them where
16 I was going.

17 Q Anyone else in your family that you spoke
18 with about today's deposition?

19 A No, sir.

20 Q Did you speak with neighbors about today's
21 deposition?

22 A I told one coworker where I was going
23 today.

24 Q What is your coworker's name?

25 A Her name is Joan Sheldon.

1 Q Where do you work?

2 A I volunteer at the Methodist Church
3 Clothing Center, and she's in charge there.

4 Q Let's shift gears, Ms. Francis, and talk a
5 little bit about your history.

6 Are you currently married?

7 A I'm a widow.

8 Q When did your husband pass?

9 A April of 2006.

10 Q What was his name?

11 A Robert A. Francis, Jr.

12 Q How long were you married?

13 A It would have been 52 years in May after
14 his death.

15 Q He's your only marriage then?

16 A Yes, sir.

17 Q You mentioned that you had three children?

18 A Yes.

19 Q What are their names and ages?

20 A Let's see. Robert was born in 1956, so he
21 would be 54. Lucinda was born in '58, she would
22 be 52. Michael was born in 1960, so he's 50.

23 Q Is it Robert A. Francis III?

24 A Yes, sir.

25 Q How old is he again, I'm sorry? I just

1 missed that.

2 A He was born in 1956.

3 Q Okay. Do any of your children live with

4 you?

5 A No, sir.

6 Q Where does Michael work?

7 A Michael works in Waynesboro, Tennessee.

8 Q What does he do?

9 A They own and operate a restaurant.

10 Q Does Lucinda work?

11 A No, sir.

12 Q And does Robert work?

13 A Yes, sir.

14 Q Where does he work?

15 A He has a company that he works in at home.

16 Q What sort of company?

17 A He sews marine canvas.

18 Q For sailboats?

19 A And all boats.

20 Q And he does that out of his home?

21 A Yes, a shop.

22 Q Where does Robert live?

23 A He lives over on Rebel Road.

24 Q Is that in Kingston?

25 A He has a Kingston phone number, but he has

1 a Harriman mailing address.

2 Q His house is in Harriman?

3 A They -- yes, he gets his mail in Harriman,
4 190 Rebel Road.

5 Q Where does Lucinda live?

6 A She lives on Island Lane.

7 Q What is her address?

8 A 126.

9 Q Is that next door to you?

10 A Yes, sir.

11 Q And where does Michael live?

12 A Michael lives in Clifton, Tennessee.

13 Q How far is that from here?

14 A Between 3 and 400 miles, I think,
15 approximately.

16 Q How far is Michael's house at 190 -- let
17 me start again, I'm sorry.

18 How far is Robert's house at 190
19 Rebel Road from your house?

20 A I can tell you that Robert lives at mile
21 marker 567.5 on the river and I live at 565.

22 Q So pretty --

23 A Well, maybe it's -- maybe he lives at
24 567 -- 555 point -- no, anyway, he lives -- it's
25 .3 instead of .5.

1 Q 567.3?

2 A Yes.

3 Q That would be his mile marker location?

4 A Yes, it is. I'm sorry, I was confused.

5 Q Sure. That's fine.

6 Is he then across the river channel
7 from where you live?

8 A Yes, sir.

9 Q Okay. Do you have grandchildren?

10 A Yes, sir.

11 Q Can you tell me their names and ages and
12 which of your children they're associated with?

13 A Michael is the parent of Chandler Francis
14 and Kincaid Francis. Chandler is 23, and I
15 believe Kincaid is 18, I'm not really sure of
16 the year he was born. He just entered the
17 university this year.

18 Q University of Tennessee?

19 A No. MTSU.

20 Q Is Chandler a male or female?

21 A Chandler is a male.

22 Q So two boys, then, Michael has?

23 A Yes.

24 Lucinda is the parent of Riley Long,
25 she's 23, she's a senior at the University of

1 South Carolina. And Fraizer Long is 17, and
2 he's a senior at Oak Ridge High School.

3 Q Does Robert have any children?

4 A No, sir.

5 Q Let's take a look at Exhibit 2, page 13.
6 I want to talk a little bit about your
7 educational experience, Ms. Francis, and I
8 thought it would be helpful for you to take a
9 look at the responses that we were provided
10 about your education.

11 Actually, I think I pointed you to
12 the wrong page.

13 MR. DAVIS: Starting on page 12.

14 MR. SHERK: Here we go. I was a page
15 off.

16 MS. MORETZ: Page what? I'm sorry.

17 MR. SHERK: Page 12. Sorry about
18 that.

19 Q It looks as if you graduated from high
20 school in Oak Ridge, Tennessee; correct?

21 A No, sir.

22 Q Where are we? Okay. From Roane County
23 High School in Kingston?

24 A Yes, sir.

25 Q You graduated in 1950?

1 A Yes, sir.

2 Q It appears that you took some summer
3 classes after that in the summer of 1950?

4 A Yes, sir, I did.

5 Q What did those pertain to?

6 A Well, I graduated from high school in
7 three years, and it was a requirement then to
8 have four years of English. And I had to go to
9 Knox High School in Knoxville to take my senior
10 English. And I went through the graduation
11 ceremony with my class and did not receive my
12 diploma until after I completed my English
13 course successfully and got my diploma in
14 August.

15 Q Did you go to college of any kind?

16 A No, sir.

17 Q It says on page 12 of Exhibit 2 under your
18 name that you completed various
19 courses/on-the-job training - basic electricity;
20 correct?

21 A Yes, sir.

22 Q Would that have been with TVA?

23 A Yes, sir.

24 Q When did you begin those courses?

25 A I would say within the first year after I

1 was employed, started my employment with them in
2 1976. I guess one of the first classes I had
3 would have been basic blueprint reading, and it
4 proceeded on from there.

5 Q What were the other courses that you took?

6 A I really can't recall. That was many
7 years ago. But I know the basic electricity was
8 a -- one of a more major classes that we took.

9 Q How long did your training period last at
10 TVA?

11 A We had training intermittently all the
12 time we were at the nuclear plant.

13 Q What were your years of employment with
14 TVA?

15 A I started with TVA at the Kingston steam
16 plant in 1953 and was there until 1955. And
17 then I was rehired in 1976, I believe it was
18 November 26, and worked through the end of
19 September of 1988.

20 Q Ms. Phillips -- excuse me, that was
21 yesterday.

22 Ms. Francis --

23 A Yes, sir.

24 Q During your post-education training, did
25 you have any instruction in the area of

1 chemistry or biology?

2 A You mean -- would you clarify that,
3 please? You mean my education at the nuclear
4 plant?

5 Q Let me ask this then. Besides the
6 training you received at TVA at the nuclear
7 plant, did you receive other educational
8 training after high school?

9 A No, sir.

10 Q Looking then after high school, we've
11 talked about the training that you got at TVA;
12 correct?

13 A Yes, sir.

14 Q And that was the only educational training
15 you received after high school as I understand
16 it?

17 A Yes, sir.

18 Q Okay. Did any of that training involve
19 chemistry or biology?

20 A No, sir.

21 Q Did any of that training involve the
22 environmental sciences?

23 A No, sir.

24 Q Okay. Did you receive any training in
25 toxicology or epidemiology?

1 A No, sir.

2 Q Ms. Francis, I believe you said your
3 current address was 132 --

4 A Island --

5 Q -- Island Lane?

6 A Island Lane, Kingston.

7 Q How long have you lived at 132 Island
8 Lane?

9 A Since June of 1956. It has changed rural
10 routes and box numbers many times, but it's the
11 same location.

12 Q Same house, same piece of property?

13 A Yes, sir.

14 Q All right. So from 1956 to the present
15 you lived at 132 Island Lane?

16 A Yes, sir.

17 Q Going back in time, where have you lived?

18 A Well, I was born in St. Albans, West
19 Virginia, and then Union Carbide brought my
20 parents to Oak Ridge, Tennessee in 1944, I
21 believe it was March of '44. We lived in Oak
22 Ridge for over five years, until May of 1949,
23 when we moved to the property that I live on,
24 which is a portion of a farm that my parents
25 bought in 1949. I believe it was 54 acres. And

1 I've -- that's where I've lived. I did leave
2 something out. I did leave something out. I
3 need to correct that.

4 When my husband was in the service
5 after I left TVA in 1955 I went to Fayetteville,
6 North Carolina and lived with him for a brief
7 period until he was discharged from the service.
8 And then until our house was built we lived in
9 an apartment in Oak Ridge for a short period of
10 time.

11 Q How long were you in Fayetteville, North
12 Carolina?

13 A From March until June, time of his
14 discharge.

15 Q Okay. What year was your house being
16 built?

17 A It wasn't really complete when we moved in
18 in 1956. So I assume -- I don't remember, but
19 it must have taken six months or so to build it.

20 Q So as I understand it, in May of 1949 your
21 parents purchased a portion of a farm?

22 A No, they purchased a farm.

23 Q The whole thing?

24 A The whole farm.

25 Q And it was roughly 54 acres?

1 A Yes, sir.

2 Q Does your house sit on a portion of the
3 farm that your parents bought?

4 A Yes, sir.

5 Q Over the years did your parents subdivide
6 up that farm?

7 A Yes, sir.

8 Q Okay. What were your parents' names?

9 A G.S. Hensley and Manna Fay Hensley.

10 Q G.S. Hensley?

11 A Yes.

12 Q And Manna Fay Hensley?

13 A Yes.

14 Q Let's talk a little bit about the places
15 you've worked over the years.

16 I believe that you said when you --
17 let's go from the point that you graduated from
18 high school.

19 What was your first job after high
20 school?

21 A With A. Parker at the Kingston Bank &
22 Trust Company.

23 Q What year was that?

24 A Well, it would have been after I graduated
25 from high school, so that would have been August

1 of 1950.

2 Q You worked at a bank then in Kingston?

3 A Yes, sir, on Race Street.

4 Q How long were you employed there?

5 A I would say a little over a year.

6 Q Where did you work next?

7 A May I ask you a question? Is there a list
8 of my employment in these interrogatories
9 anywhere?

10 Q I wish there were. I don't think so.

11 MR. DAVIS: So just as best as you
12 can remember.

13 MR. SHERK: Yeah, believe me, we'd go
14 straight there.

15 MR. DAVIS: She's got a better memory
16 than I do.

17 THE WITNESS: So we're at the
18 Kingston Bank & Trust Company. I worked for a
19 brief time at Willys-Overland in the electronics
20 department. My sisters were both employed there
21 in Anderson, Indiana, and that was in the
22 interim between my employment with the Kingston
23 Bank and TVA. But there was a brief period that
24 I worked for Sterling Roberts who's an attorney
25 and Kenneth Deathridge who's an attorney, I

1 can't remember how many months. I know where
2 the law office was, but I can't remember how
3 many months I worked for them.

4 Q So say between 1951 and 1953 you worked
5 for a couple of lawyers?

6 A Yes.

7 Q And you started with TVA in 1953, I
8 believe?

9 A Yes.

10 Q And I understand from your earlier
11 testimony that you worked for TVA the first time
12 between 1953 and 1955?

13 A Yes, sir.

14 Q What were you hired to do in 1953 when you
15 went to work for TVA?

16 A I was a clerk in the cost engineering's
17 office.

18 Q I'm sorry in the --

19 A Cost engineering's office, construction
20 office.

21 Q What position were you given when you were
22 hired by TVA in 1953?

23 A I'm sure it was a clerk typist SB-1,
24 probably. I'm not sure.

25 Q What sorts of things did you do during

1 that period of time?

2 A I assisted the cost engineer with all of
3 his duties and typed all the documents. And it
4 was a great learning experience.

5 Q Was it during this period of time,
6 Ms. Francis, that you received some of the
7 educational training that we talked about
8 earlier?

9 A They just taught me how to do my job there
10 at TVA. My training basically started when I
11 went to the nuclear plant and was promoted to an
12 engineering aide.

13 Q Okay. So we have you working at TVA from
14 1953 to 1955; correct?

15 A Yes.

16 Q What happened after 1955?

17 A Well, I had a young son in 1956, and I
18 stayed home with the children, and I worked part
19 time out of my house after they got up in school
20 grooming small animals, and I did that until
21 1968 when -- no, I guess from '68 to 76 I had
22 the grooming business at home. And then in 1976
23 with the added expense of college and the three
24 children so close together, I decided to seek
25 employment outside the home, and that's when I

1 went with TVA.

2 Q When you were hired by TVA in 1976, what
3 position were you given?

4 A Entry level position.

5 Q Did you do something similar to the job
6 that you did when you worked for the cost
7 engineering office?

8 A Yes. I was the -- I don't think they
9 called it secretary, but I was -- did all the
10 typing and the filing and that sort of thing for
11 the electrical engineer.

12 Q Are you --

13 A The phones and, you know, assisted all the
14 employees in the unit.

15 Q Were you a kind of administrative
16 assistant?

17 A No, sir.

18 Q Okay. So it was something like a
19 secretarial position?

20 A Yes.

21 Q And this was at the nuclear facility at
22 TVA?

23 A Yes, sir.

24 Q What's the location of the nuclear
25 facility?

1 A Spring City, Tennessee.

2 Q What is the name of that nuclear facility?

3 A Watts Bar Nuclear Plant.

4 Q I believe you testified earlier that you
5 worked at the Watts Bar Nuclear Plant from 1976
6 to 1988?

7 A Yes, sir.

8 Q Can you take me through the positions that
9 you held from 1976 to 1988 while working for
10 TVA?

11 A I can't remember whether the clerk
12 position was elevated or whether I went straight
13 from the clerk position within six or eight
14 months to be an engineering aide grade 2. But
15 it was similar to that.

16 And then by the end of my employment
17 I had been advanced to engineering associate
18 grade 6. And I don't have records of the
19 intervals between the promotions, but I'm sure
20 it was six months to a year or whatever, you
21 know, they allocated.

22 Q It sounds as if you had regular reviews
23 and received promotions?

24 A Yes, sir.

25 Q How did your job duties change when you

1 moved from the position of clerk to engineering
2 aide grade 2?

3 A I started immediately becoming familiar
4 with the blueprints and going out on the field.
5 And I guess the first thing I learned was
6 talking cables.

7 Q I'm not sure I heard that correctly.
8 Talking cables?

9 A Yes.

10 Q What does that mean?

11 A Well, in the wiring in a plant, you know,
12 there would be a wire, like from a pump to a
13 panel, you know, there's two ends. So another
14 engineering aide would be on one end -- one
15 designated end that had been connected by the
16 electricians, and we would obtain the
17 electrician, get him to lift the wire, and we
18 would attach a phone and talk to each other to
19 make sure the connection was there.

20 Q Okay.

21 A And then they would have to put them back
22 down and torque them. So it was really quite a
23 learning process to learn the entire plant and
24 how to get to each designation.

25 And then you signed off on the slip

1 that it was done correctly according to the
2 wiring diagram. That was a long time ago.

3 Q So you did some -- sounds like some
4 sophisticated wiring work?

5 A Yes.

6 Q Okay. What other sorts of things did you
7 do during your tenure at the nuclear facility?

8 A Well, toward the end we torqued valves.
9 We wire-checked drawings, we wire-checked
10 panels. It's been so long, I really do not
11 recall everything.

12 Q Okay. Did you enjoy your work at TVA
13 during that period of time?

14 A Yes.

15 Q Why you leave in 1988?

16 A It was a reduction in force.

17 Q Did you choose to take a retirement of
18 sorts?

19 A Yes, I did.

20 Q Were you presented with a buyout package?

21 A No, sir.

22 Q What were the terms of your departure from
23 TVA in 1988?

24 A They gave us a notice, and then we worked
25 out the notice and we left.

1 Q Where have you worked since 1988 when you
2 left TVA?

3 A I worked for Boone Dougherty who's an
4 attorney -- was an attorney in Knoxville,
5 Tennessee.

6 Q Is he a real estate attorney?

7 A No.

8 Q What sort of attorney is he?

9 A I don't really know how to answer that.
10 He handled divorces, criminal cases, real
11 estate, minor things like that.

12 Q General practitioner then?

13 A Yes, I would say.

14 Q What years did you work for Mr. Dougherty?

15 A I would say probably a little over a year,
16 I'm not sure.

17 Q Would that have been in 1989?

18 A I believe it would have been closer to --
19 it was probably in the vicinity of '89 and '90.
20 I'm not sure.

21 Q What did you do after you left
22 Mr. Dougherty's employ?

23 A I don't think I've worked any place else.

24 Q So you worked one year for Mr. Dougherty,
25 then, that is pretty much it for your working

1 career?

2 A Yes, yes, yes. I volunteer at the church
3 and things like that.

4 Q Looking back at your employment career,
5 did you ever have an injury at work?

6 A Yes, sir.

7 Q When was that?

8 A September 1977.

9 Q That was while you were at TVA -- no, that
10 was before you were at TVA?

11 A No. I had been there almost a year,
12 November of 1976.

13 Q What happened in November of 1977?

14 A I fell out of a moving truck, the door
15 came open.

16 Q What injuries did you receive?

17 A I hurt my back. Of course I had
18 abrasions, scrapes, just from falling in the
19 gravel.

20 Q How fast was the truck going?

21 A I wouldn't know.

22 Q Were you hospitalized as a consequence of
23 that accident?

24 A No.

25 Q Did you receive medical treatment as a

1 consequence of the accident?

2 A Yes, sir.

3 Q Did you have a Workers' Compensation
4 claim?

5 A Workers' -- I don't know what you mean by
6 a claim. But Workers' Compensation paid for my
7 doctors visits and for my medication and for
8 TENS unit.

9 Q Specifically what injuries did you sustain
10 November of 1977 as a consequence of falling out
11 of the truck?

12 A Well, it was determined much later in 1985
13 after my problems just kept being exacerbated
14 that I had a huge bulging disc at L-4/L-5 and
15 Dr. Geron Brown did surgery at Oak Ridge
16 Hospital. That was in 1985.

17 Q What was the name of your doctor again?

18 A Geron, G-e-r-o-n, Brown.

19 Q Dr. Brown is a surgeon?

20 A Orthopedic surgeon.

21 Q Since the surgery, has your back improved?

22 A I'm sure it has.

23 Q Did you ever file a lawsuit in connection
24 with this work-related injury?

25 A No, sir.

1 Q Have all your medical bills and expenses
2 been picked up?

3 A Yes, sir.

4 Q Okay. Any other workplace injuries during
5 the course of your employment career?

6 A No, sir.

7 Q It sounds like that was enough.

8 Do you ever -- do you feel that you
9 have ever been exposed to substances at the
10 workplace that have caused you to become ill?

11 A No, sir.

12 Q When you were working at the Watts Bar
13 nuclear facility, did you have to wear
14 protective gear?

15 A Yes, sir.

16 Q What sorts of protective gear would you
17 have to wear?

18 A Hardhat and safety glasses when we were
19 out in the field, the plant.

20 Q Did you ever have to wear a one-piece suit
21 or anything like that?

22 A No, sir.

23 Q Did you ever wear a radiation badge?

24 A No, sir.

25 Q At any time, during the course of your

1 employment, do you believe that you had been
2 exposed to asbestos?

3 A Not to my knowledge.

4 Q Do you believe you've been exposed to
5 silica?

6 A Not to my knowledge.

7 Q Do you believe you've been exposed to
8 beryllium?

9 A Not to my knowledge.

10 Q Mercury?

11 A No, sir.

12 Q Magnesium?

13 A No, sir.

14 Q Selenium?

15 A No, sir.

16 Q Cobalt?

17 A I'm not aware of any of these.

18 Q How about arsenic?

19 A No, sir.

20 Q Earlier this morning, Ms. Francis, you
21 indicated that you have had your deposition
22 taken before?

23 A Yes.

24 Q What were the circumstances that you sat
25 for a deposition?

1 A I filed a suit through Boone Dougherty
2 when I was employed with him against TVA.

3 Q What did that suit allege?

4 A I tried to recall yesterday. I really
5 can't remember, but it was over being discharged
6 because -- I can't remember what was in the
7 Complaint, to tell you the truth.

8 Q This was the discharge that occurred in
9 1988?

10 A Yes, sir.

11 Q When did Mr. Dougherty file this lawsuit
12 for you?

13 A I really can't recall.

14 Q It was sometime after 1988?

15 A Yes.

16 Q During the period of time you worked for
17 Mr. Dougherty?

18 A Yes, sir.

19 Q So we can guess around 1989 or 1990?

20 A I would say.

21 Q Was it a discrimination case?

22 A I really can't say. I -- I don't know.

23 Q Did you feel that you had been unjustly
24 discharged by TVA?

25 A The crux of the matter was that they

1 called back most of the engineering aides to
2 work as contract employees with the exception of
3 myself and one other employee. I believe that
4 that might have been the basis of the suit. I
5 don't know.

6 Q Was your suit resolved?

7 A Yes, because due to circumstances at the
8 office, my attorney developed some health
9 issues, and with the stress of dealing with the
10 clients and preparing all the documents and
11 trying to go forward with the suit against TVA,
12 we dropped it. And Mr. Dougherty soon lost his
13 law license.

14 Q After the suit was dropped did you ever
15 pick it back up?

16 A No, sir.

17 Q That was the end of that?

18 A That was the end.

19 Q Okay. And as I understand it then, that
20 is the only other lawsuit that you've been
21 involved in; correct?

22 A Yes, sir.

23 Q Okay. You've never filed for bankruptcy?

24 A No.

25 Q How did you get involved in this lawsuit?

1 A Well, I assume from hearing of the
2 meetings that occurred after the ash spill. And
3 I attended one meeting with some landowners
4 conducted by a gentleman by the name of Clark
5 Meredith, he was an older gentleman who was an
6 attorney in Oak Ridge, and had a boat at a
7 marina, you know, down the lake, but he decided
8 it was too much, and there wasn't anything
9 resolved at that meeting. We just discussed
10 what had happened.

11 Q So after the spill you attended a meeting
12 conducted by Mr. Meredith?

13 A Yes, I did.

14 Q But it sounded like the magnitude of the
15 litigation would be too much for him?

16 A Yes, it was.

17 Q So what happened next in your steps toward
18 becoming involved in this lawsuit?

19 A I can't remember how I heard of Brantley
20 Fry, but I contacted them and a young lady, I
21 can't remember her name, came out to our house
22 and talked with us. And we signed papers that
23 day.

24 Q Do you remember when that was?

25 A No, sir, I don't.

1 Q Would that have been in the time period of
2 six months after the spill or so?

3 A It would have had to have been in that
4 vicinity of time.

5 Q Let's take a peek at Exhibit 2, page 17.
6 Toward the middle of the page
7 underneath the caption, that reads "Response to
8 Interrogatory No. 13."

9 Do you see that?

10 A Yes, sir.

11 Q It reads,

12 "Jewel Francis:
13 Established attorney-client
14 relationship on July 2, 2009."

15 Correct?

16 A That's what it says.

17 Q Okay. Does that jog your memory that it
18 would have been July 2, 2009, that you signed
19 the papers with your counsel?

20 A Yes, sir.

21 Q Okay. I take it that both you and your
22 husband became clients at that point in time?

23 A My husband was deceased at that time.

24 Q Oh, I apologize, right.

25 So just you became a client?

1 A Yes.

2 Q Did any of your children also sign up with
3 your law firm?

4 A Yes, sir.

5 Q Which -- which of your attorney -- which
6 of your children also signed up as clients of
7 your counsel?

8 A My son Michael Francis and Robert Francis.

9 Q How about your daughter?

10 A No, sir.

11 Q Did she retain other counsel?

12 A Not to my knowledge.

13 Q So Lucinda has not entered into an
14 attorney-client relationship?

15 A I'm not aware of one.

16 Q When you retained counsel, Ms. Francis,
17 was it your intention to try to resolve your
18 claim early on or to proceed immediately to
19 filing a lawsuit?

20 A Would you please state that again?

21 Q Sure. When you hired your lawyers, was it
22 your hope that maybe you could resolve your
23 claims in advance of having to file suit?

24 A I really didn't think about that, sir.

25 Q Okay. After you retained your counsel,

1 did you put the matter in your counsel's hands
2 to figure out the best way to proceed?

3 A I certainly did.

4 Q Okay. How was it that you decided that
5 these lawyers were the lawyers for you?

6 A By talking with them.

7 Q What about those communications that you
8 had with your prospective counsel sealed the
9 deal in terms of your retaining them?

10 MR. DAVIS: I'm going to object to
11 the question if it calls for any discussions you
12 had with your attorney, that's attorney-client
13 privilege and I instruct you not to answer.

14 BY MR. SHERK:

15 Q You can answer insofar as it doesn't
16 involve communications that you had with your
17 counsel.

18 A Would you please restate the question?

19 Q Sure. Not wanting you to talk about
20 anything that you discussed with your counsel,
21 what was it about the meetings that you had with
22 them that convinced you that that was the firm
23 you ought to hire?

24 MR. DAVIS: Same objection.

25 THE WITNESS: I really don't have

1 anything to say.

2 BY MR. SHERK:

3 Q Did you discuss the filing of this lawsuit
4 before it was filed with your counsel?

5 A No, sir.

6 Q Okay. When did you first learn that this
7 lawsuit had been filed?

8 A I don't recall.

9 Q Do you know when the lawsuit was filed in
10 this case?

11 A Is there a stamp on it?

12 Q Right on the bottom of the first page.

13 A 7/13/10.

14 Q Were you aware around that time that the
15 case had been filed?

16 A I might have received a letter from the
17 attorneys that they had filed suit. I can't
18 recall for sure.

19 Q When did you come to understand that you
20 had been named as a class representative in this
21 lawsuit?

22 A I didn't know my name was on the Complaint
23 until yesterday.

24 Q Okay. When did you get the news that your
25 deposition would be taking place today?

1 A I really can't say, but I was called
2 sometime back and asked when I would have a
3 block of time open, and these dates were
4 mentioned, between the 1st of September and the
5 10th of September. I don't know when that was.

6 Q How do you keep up with what's going on in
7 this lawsuit?

8 A The attorneys send us letters.

9 Q Do you have any other forms of
10 communication with your counsel to keep abreast
11 of developments in the case?

12 A No, sir.

13 Q Do you know any of the other class
14 representatives that are listed at the top of
15 the Consolidated Class Action Complaint?

16 A Not to my knowledge.

17 Q Okay. So you've never met with them or
18 spoken with them?

19 A No, sir, not to my knowledge.

20 Q Thinking back to a time before you
21 retained your counsel, did you meet with any
22 other lawyers besides Mr. Meredith about
23 representation in this case?

24 A No, sir.

25 Q Okay. Did you ever go and hear a

1 presentation by Erin Brockovich?

2 A No, sir.

3 Q Did your friends or family members have
4 any suggestions for you in terms of counsel you
5 might want to hire?

6 A I had Erin refer -- mentioned to me, you
7 know. And I was aware that she was at Roane
8 State with a presentation, but I didn't attend.

9 Q Has anyone tried to discourage your
10 participation in a lawsuit?

11 A No, sir. I've discussed this very little
12 with anyone other than my family.

13 Q You're aware, Ms. Francis, this is a
14 proposed class action?

15 A Yes.

16 Q Okay. What does a class action mean to
17 you?

18 A It means that I -- I assume this means,
19 I'm not sure, that these people represent the
20 whole class of people that were impacted by the
21 ash spill.

22 Is that right?

23 MR. DAVIS: You don't need to ask him
24 questions. Just answer to the best of your
25 ability.

1 And I would suggest we take a break
2 in a few minutes, whenever you get to a good
3 stopping point.

4 MR. SHERK: This is good.

5 (Recess.)

6 BY MR. SHERK:

7 Q Ms. Francis, we're back on the record
8 after a short break. We were talking about your
9 involvement in this class action before we
10 broke.

11 Correct?

12 A Yes, sir.

13 Q What do you view as your responsibilities
14 as a class representative?

15 A To answer these questions honestly and try
16 to impart any knowledge to you of the community
17 or any of my neighbors that I know have been
18 impacted by this.

19 Q Have you done anything in particular to
20 prepare yourself to be a class representative in
21 this case?

22 A No, sir.

23 Q Are you aware, Ms. Francis, that in the
24 consolidated class action complaint, three
25 different classes are proposed?

1 A Yes.

2 Q Do you know which class you would be a
3 part of?

4 A Yes, sir, that would be Class 2.

5 Q What do you understand that Class 2
6 consists of?

7 A I believe I'm correct in saying that it
8 involves the people from the Emory River where
9 you turn down the Tennessee to Watts Bar Dam.
10 I don't know the mile markers there.

11 (Marked Exhibit 3.)

12 BY MR. SHERK:

13 Q Ms. Francis, you've just been handed
14 Deposition Exhibit No. 3, and I'll represent to
15 you that this is a small map which intends to
16 trace the path of the Class 2 down the Emory and
17 Tennessee River.

18 Do you see that?

19 MR. DAVIS: I'm going to object to
20 the question because this is not a map that was
21 included with the class filing.

22 But if you recognize this, you may
23 answer.

24 THE WITNESS: Would you restate the
25 question?

1 BY MR. SHERK:

2 Q Sure.

3 A Please.

4 Q You have before you Exhibit No. 3;
5 correct?

6 A Yes, sir.

7 Q And do you recognize that as a map of the
8 Kingston area and the Tennessee River?

9 A Yes.

10 Q Do you see the blue line on Exhibit 3?

11 A Yes, I do.

12 Q Okay. That was our attempt to trace the
13 path of Class B from its origin all the way down
14 to the Watts Bar Dam.

15 Do you see that?

16 A Yes.

17 Q You can take a look at page 27 of
18 Exhibit 1, Ms. Francis. I believe that lists
19 the classes in this case. Please feel free to
20 consult the property damage Class 2.

21 A (Witness complies.)

22 Q Does the blue line in your estimation on
23 Exhibit 3 trace the path down the Emory and the
24 Tennessee as described in property damage
25 Class 2?

1 MR. DAVIS: Object to the question.
2 I believe you misspoke about the rivers.

3 THE WITNESS: There's mention of the
4 Clinch River in this property damage Class 2,
5 and referring to the blue line on the Tennessee
6 River; right?

7 (Marked Exhibit 4.)

8 BY MR. SHERK:

9 Q Uh-huh. Yes. Let's use a bigger map.

10 Ms. Francis, I'm going to hand you
11 Deposition Exhibit 4, and I'll represent to you
12 that this is a blown-up version of Deposition
13 Exhibit No. 3 and hopefully one that is easier
14 to read.

15 Do you have that exhibit before you?

16 A Yes, sir. Okay.

17 MR. DAVIS: Do you have a question?

18 MR. SHERK: Yes.

19 Q So under the class definition, the class
20 area runs from the Emory River mile 0.0 to the
21 Watts Bar Dam?

22 A I can't find that on the map.

23 MR. DAVIS: Let the record reflect
24 the map does not have -- do you want to point
25 out the mile markers?

1 BY MR. SHERK:

2 Q Do you see the zero right there?

3 MR. DAVIS: That's actually the
4 Clinch River, John.

5 THE WITNESS: This is the Clinch
6 River.

7 BY MR. SHERK:

8 Q Sorry. Here we go. Here's Emory 2, Emory
9 1. Here you are, Ms. Francis.

10 A Right there is the zero.

11 Q There's the Emory 0.0 mile marker. Why
12 don't we put a little circle around that in red.

13 A Around the mile marker?

14 Q Uh-huh. Yeah. Right. And then the class
15 was -- class definition goes all the way down to
16 the Watts Bar Dam; correct?

17 A Watts Bar Dam.

18 Q Okay. Thank you. And the class
19 definition also includes a little bit of the
20 Clinch River; correct?

21 A Yes, sir.

22 Q That's Clinch River mile marker 5.5 to the
23 confluence of the Emory and Clinch Rivers;
24 correct? Here's mile marker 6 and mile
25 marker 5.

1 A Okay.

2 Q So it's about midway there. Do you see
3 that?

4 A Yes.

5 Q Okay. Would you circle that right there?

6 A Mile marker 5 or midway?

7 Q 5.5, yeah.

8 A 5.5, all right.

9 Q Okay. Very good.

10 Now, thinking about this class
11 definition, are there any refinements or
12 additions to it that you would suggest,
13 Ms. Francis?

14 A No, sir. I've left that up to my
15 attorneys. They're much more knowledgeable than
16 I am of the river and what's involved.

17 Q Are you familiar with property damage
18 Class 1?

19 A Somewhat.

20 Q I'll represent to you that on both
21 Exhibits 3 and 4, that the boundaries of
22 property damage Class 1 have been imposed there
23 in purple.

24 Do you see that?

25 A Yes.

1 Q Do you have any thoughts about refinements
2 or additions to that class boundary?

3 A No, sir.

4 Q Also included in this proposed class
5 action is a resident class. Were you aware of
6 that? And feel free to take a look at page 27
7 of Exhibit 1.

8 A That's what it states in the Complaint.

9 Q Are you familiar with that class?

10 A Not really.

11 Q Ms. Francis, did you ever consider being a
12 plaintiff in an individual case rather than a
13 class representative in a class action?

14 A No, sir.

15 Q Do you know other individuals who have
16 their own lawsuits against TVA and who are not
17 involved in class actions?

18 A No, sir.

19 Q Okay. Do any of your friends and
20 neighbors have claims against TVA?

21 A I'm really not aware what the neighbors
22 are doing.

23 Q And as I understand it, to the extent that
24 your family members are involved in litigation,
25 they are involved in the same lawsuit that you

1 are a part of?

2 A Yes, sir.

3 Q Okay. Do you know anyone who has resolved
4 his or her claim against TVA arising out of the
5 ash spill?

6 A No, sir.

7 Q Do you know why it is you were chosen to
8 be a class representative in this case,
9 Ms. Francis?

10 A I was thinking that on what you asked me
11 earlier when I became aware that I was involved
12 in the suit.

13 Q Uh-hum, yes.

14 A And really, the first time it was
15 discussed when we had a meeting in Tom
16 McFarland's office with the attorneys and they
17 were asking me questions about living on the
18 lake and how long I had lived there and that
19 sort of thing. And they said that I would be an
20 excellent example to represent the class action.

21 But somehow, I really didn't grasp
22 the meaning of that.

23 Q Until now?

24 A Yes, sir.

25 Q Now, we talked about a Mr. Meredith

1 earlier this morning; correct?

2 A Yes.

3 Q Who is Mr. McFarland?

4 A Tom McFarland is a local attorney, and I
5 think he's Roane County's attorney, too. And we
6 had -- have had two meetings in his office.

7 Q These would be meetings between you and
8 your counsel here today?

9 A Yes, sir.

10 Q Have you ever talked to your pastor or
11 minister about your involvement in this lawsuit?

12 A No, sir.

13 Q Have you ever talked to your pastor or
14 minister about the ash spill in general?

15 A No, sir.

16 Q You are a member of the Methodist Church
17 in the area?

18 A Yes.

19 Q Which church was that?

20 A Kingston United Methodist Church.

21 Q Have you talked to a psychiatrist or
22 psychologist about the ash spill?

23 A No.

24 Q Have you talked to a psychiatrist or a
25 psychologist about your involvement in this

1 lawsuit?

2 A No.

3 Q Let's turn our attention, now, Ms. Francis
4 to the day of the ash slide.

5 Okay?

6 Where were you on December 22, 2008?

7 A I was at home at 132 Island Lane.

8 Q How did you hear about the ash slide?

9 A I'm sure it must have been on the
10 television.

11 Q Did you get a phone call from anybody
12 about it?

13 A Not that I recall.

14 Q Okay. What did you do when you first
15 heard about the ash slide?

16 A I don't recall.

17 Q In the week or two following the ash
18 slide, what do you remember taking place?

19 A I know there was a lot in the media and
20 people from out of state, relatives, called and
21 asked if we were all right and if we were
22 impacted by the spill because evidently there
23 was more in the media possibly out of state than
24 locally, I'm told. I'm not sure.

25 But that's what occurred.

1 Q Okay. You kept advised about the spill by
2 watching news programs on television?

3 A Yes. And possibly what was in the
4 newspaper or the local Roane County paper.

5 Q Within the first couple weeks after the
6 ash slide, did you visit the Kingston facility
7 to see for yourself what had gone on?

8 A I drove out Swan Pond Road as near as I
9 could go to see some of the devastation.

10 Q How closely after the spill did you drive
11 out to Swan Pond Road?

12 A Not very close. I'm not that familiar
13 with that area, and I just had to view it from
14 quite a distance, and you really couldn't see
15 what was happening.

16 Q Did anybody go with you in the car on your
17 drive?

18 A My son Michael.

19 Q This was in the first couple weeks after
20 the spill?

21 A Yes.

22 Q Anybody else go with you?

23 A No.

24 Q How did your neighbors react to the ash
25 slide?

1 A I really don't know.

2 Q Do you know of anyone who has left the

3 area since the ash slide?

4 A No.

5 Q Do you know anybody that lives up in the

6 Swan Pond Circle area?

7 A I'm not sure it's the Swan Pond Circle

8 area, but I have a brief acquaintance with

9 someone up there.

10 Q Who is that?

11 A Gary Topmiller.

12 Q Have you talked with Mr. Topmiller about

13 his experiences since the ash slide?

14 A No, sir. But I've seen him talking on the

15 television. And the reason why I'm aware that I

16 know him is because he was my son Robert's

17 neighbor two houses down. And that's how I

18 first met Gary, at my son's house.

19 Q Did Mr. Topmiller then move after you met

20 him?

21 A He moved from the Rebel Road area over to

22 the place that was impacted.

23 Q He moved over closer to the Kingston

24 facility then?

25 A Yes.

1 Q Kind of around Swan Pond Road or Swan Pond
2 Circle?

3 A I'm not sure of the address.

4 Q Okay. Did you receive any instructions
5 from TVA or any government agency after the
6 spill?

7 A I called the -- pardon me.

8 I called the command center and asked
9 them -- requested to check my well, but they
10 didn't give me any instructions. They just sent
11 some men out to test the well.

12 Q Did someone bring you bottled water after
13 the ash spill?

14 A Yes, they did.

15 Q Okay. Who was that?

16 A I don't remember her name, but a very
17 lovely young lady.

18 Q Okay. Did you receive any information in
19 the weeks following the spill about the water
20 quality?

21 A I'm sure we received the report on how our
22 well checked out.

23 Q Okay. Did you receive any instructions
24 from TVA or a government agency regarding the
25 air filters on your air conditioning unit?

1 A Not to my knowledge.

2 Q All right. Ms. Francis, do you believe
3 that you have been exposed to hazardous
4 substances in fly ash since the ash slide on
5 December 22, 2008?

6 MR. DAVIS: I'm going to object to
7 the question as vague.

8 You may answer if you understand.

9 THE WITNESS: I really don't
10 understand that question, sir.

11 BY MR. SHERK:

12 Q Do you believe that you have been exposed
13 to fly ash as a consequence of the ash slide on
14 December 22, 2008?

15 A It's down on my shore and on my dock and
16 all around me. I'm surrounded by the water on
17 three sides, so I would assume that's exposure.

18 Q Any other way that you believe you may
19 have been exposed?

20 A Not to my knowledge.

21 Q Since the ash slide, have you asked any
22 doctor to perform screening tests on you to
23 determine whether you've been exposed to
24 hazardous substances from the fly ash?

25 A No, sir.

1 Q Do you believe you are at a significantly
2 increased risk for disease as a consequence of
3 exposure to hazardous substances in fly ash?

4 MR. DAVIS: Object to the question.
5 Vague and compound.

6 BY MR. SHERK:

7 Q You can answer.

8 A I think that would have to be determined
9 by further studies. The studies they've
10 conducted so far are incomplete, I feel.

11 Q Do you believe that you need to have
12 medical screening tests to determine whether or
13 not you're at a significantly increased risk of
14 disease?

15 A I haven't thought so.

16 Q You don't think so?

17 A It hasn't -- the fallout hasn't come down
18 from the testing yet. I believe that we need
19 longer-term testing to determine the effects of
20 what has occurred.

21 Q Okay. And do you yourself feel that you
22 should be tested as a consequence of potential
23 fallout from the ash exposure?

24 A Not at this point.

25 Q Okay. Why is that?

1 A I really don't know. I think the tests
2 that they've monitored the people are -- weren't
3 long enough. We don't know yet what the
4 long-lasting effects will be.

5 Q Okay. And do you believe that you should
6 be a part of any tests that happen in the future
7 to determine the effects of exposure long term?

8 MR. DAVIS: Objection. Asked and
9 answered.

10 BY MR. SHERK:

11 Q You can answer.

12 A Would you restate the question, please?

13 Q Sure. Do you believe that you should be a
14 part of any testing that would occur to
15 determine the long-term consequences of
16 exposure?

17 A If it should become necessary.

18 Q Okay. As a member of property Class 2,
19 Ms. Francis, what are you seeking in this
20 lawsuit?

21 A Well, I feel that the people should be
22 compensated for their loss of the use of the
23 lake and their properties. And there has to
24 have been a loss of value in our properties due
25 to the spill.

1 Q Are you claiming that you have sustained
2 personal injuries as a consequence of the ash
3 slide?

4 MR. DAVIS: I'm going to object to
5 the question because it calls for a legal
6 conclusion.

7 But if you understand it, you may
8 answer.

9 THE WITNESS: No, I don't have any
10 personal injuries physically to my body that I
11 know of.

12 BY MR. SHERK:

13 Q Do you believe that you have suffered
14 emotional distress as a consequence of the ash
15 slide?

16 A Not to where I would need treatment or
17 that sort of thing, if that's what you're
18 referring to.

19 But it is very distressing to realize
20 what has happened to the community and our
21 environment. It's very sad.

22 Q As I understand it, Ms. Francis, you are
23 not seeking medical monitoring; is that correct?

24 A No.

25 Q Besides paying money for the loss of value

1 in your property, is there anything else that
2 you would like from these defendants in this
3 lawsuit?

4 A I think they need to answer the Complaint.

5 Q All right. Besides answering the
6 Complaint, is there anything that you would have
7 these defendants do as a consequence of this
8 lawsuit?

9 A I'll leave that up to my attorneys, sir.

10 Q All right. Would you like to see TVA shut
11 down?

12 A No, sir.

13 Q Changing the subject a bit, Ms. Francis.

14 You reside at 132 Island Lane;
15 correct?

16 A Yes.

17 Q Is that the property that is at issue for
18 you in this lawsuit?

19 A Yes. But I also own a -- another portion
20 of land on down that would be involved in this
21 class.

22 Q That would be land on Happy Ending Lane?

23 A Yes, sir.

24 MR. DAVIS: That would be a nice name
25 for a road to live on, you know. I like that.

1 BY MR. SHERK:

2 Q Are you seeking any recovery as a
3 consequence of property at 126 Island Lane?

4 A I don't own that property.

5 Q That's the place next door; correct?

6 A Yes.

7 Q That's where your daughter Lucinda lives?

8 A Yes, sir.

9 Q When did you purchase the property at
10 120 -- excuse me.

11 When did you purchase the property
12 at 132 Island Lane, Kingston, Tennessee?

13 A I don't remember for sure, but I was
14 married in 1954, and I had a warranty deed to
15 the property then. I was paying for the
16 property when I worked for TVA, so it must have
17 been in the -- probably '54, I'm guessing. I
18 haven't looked at the deeds for a long time.

19 (Marked Exhibit 5.)

20 BY MR. SHERK:

21 Q Ms. Francis, you've been handed Deposition
22 Exhibit No. 5.

23 A Yes, sir.

24 Q And I'll represent to you that this is a
25 document that we received from your counsel

1 which bears the Bates No. 08.

2 Does -- is that document entitled
3 "Lakeview Home Sites"?

4 A Yes.

5 Q Have you seen this document before?

6 A Yes, many times.

7 Q Okay. Great. Can you point out where 132
8 Island Lane is on this map?

9 A Right there, lot 45.

10 Q Let's go ahead and -- let's see if we can
11 draw a circle around that with a red Sharpie.
12 I'm not sure it will show up.

13 A And also this additional land here, that
14 would be included.

15 Q Okay. Draw a circle around the whole
16 thing.

17 A (Witness complies.)

18 Q Looking at Exhibit 5, it appears that
19 132 Island Lane is on the tip of a peninsula; is
20 that correct?

21 A Yes, sir.

22 Q Okay. On this map there's a handwritten
23 addition that says "Adj land"?

24 A Yes.

25 Q Is that something that you wrote on there?

1 A Possibly. It doesn't look like my
2 handwriting, but it is adjacent land that we
3 own. We bought it in 1957 at the courthouse in
4 Kingston from TVA at auction.

5 Q So 132 Island Lane is on the tip of the
6 peninsula; correct?

7 A Yes, sir.

8 Q And Lucinda lives right next door to you;
9 correct?

10 A Lot No. 43.

11 Q So you're lot No. 45?

12 A Yes.

13 Q And Lucinda is lot No. 43?

14 A Yes.

15 (Marked Exhibit 6.)

16 BY MR. SHERK:

17 Q Ms. Francis, you've been handed Deposition
18 No. 6, and I'll represent to you this is a
19 warranty deed dated July 1, 1953.

20 Do you see that?

21 A Yes, sir.

22 Q I have highlighted parts of this for you
23 and your counsel to make things go a little
24 quicker.

25 Do you see the highlighting?

1 A Yes, sir.

2 Q This appears to be a warranty deed from
3 your parents to you?

4 A Yes, sir.

5 Q And it looks as if this deeds lot 45,
6 which we were just looking at on the prior
7 exhibit to you; correct?

8 A Yes.

9 Q And did you pay for this property
10 yourself?

11 A Yes, I did, \$200 a month.

12 Q What was the total purchase price?

13 A The total purchase price was 1,750, but my
14 dad let me have it for \$1,500 if I would type
15 all the warranty deeds for his subdivision.
16 That ended up being at \$5 each, and I did that.
17 He was quite a businessman.

18 Q Your father's name was Greenville Sherman
19 Hensley?

20 A Yes.

21 Q And your mother's name was Manna Fay
22 Hensley?

23 A Manna, like manna from heaven.

24 Q Was there anything on this lot at all when
25 you purchased it?

1 A No, sir. It was the cornfields to the
2 farm.

3 Q Looking back at Exhibit 5, that's the plat
4 map, is all the property on Exhibit 5 the farm
5 that your father purchased?

6 A A portion of it.

7 Q What portion comprises the farm that your
8 father purchased?

9 A Well, this E.E. Jones property line here
10 is now the Southwest Pointe Golf Course. That
11 was the boundary of the farm back to the
12 Tennessee River. And it was boundable on the
13 front, Highway 58 over to the Clay McMurray's
14 property. And this would -- my dad retained all
15 of this property. This comprised the rest of
16 the 54 acres.

17 Q Maybe you could circle this with this blue
18 Sharpie.

19 A What he kept out of the subdivision?

20 Q Yes. All right.

21 So in any case, your property, lot
22 45, was originally part of the farm your dad
23 bought?

24 A Yes.

25 (Marked Exhibit 7.)

1 BY MR. SHERK:

2 Q Okay. Ms. Francis, you have been handed
3 Deposition Exhibit No. 7. I'll represent to you
4 this is a document entitled "Deed Creating
5 Estate by the Entirety," dated June 29, 1956.

6 Do you see that?

7 A Yes, sir.

8 Q Once again, like the other exhibit that I
9 just showed you, I highlighted parts of it for
10 you and your counsel to make things move a
11 little bit more quickly.

12 Here's the question. Do you recall
13 entering into this document in -- at the end of
14 June in 1956?

15 A Yes, sir.

16 Q Had you just been married at the time this
17 document was entered into?

18 A No.

19 Q When were you married, again?

20 A May 30, 1954.

21 Q How was it that in June of 1956 you
22 entered into this deed?

23 A It was necessary -- or we needed to put my
24 husband's name on the property because we were
25 going to sign a mortgage for the home that we

1 were building on the property.

2 Q So in 1956, you had begun or you thought
3 about building your home?

4 A It was completed in June of '56. So the
5 trust deed must have been initiated at the same
6 time this warranty deed was. I'm not sure. It
7 would had to have been.

8 Q So if I understand correctly, the reason
9 that your husband received an interest in lot 45
10 was because the two of you, as a married couple,
11 were going to secure a mortgage on it to pay for
12 your house?

13 A Yes.

14 (Marked Exhibit 8.)

15 BY MR. SHERK:

16 Q Okay. Ms. Francis, you've been handed
17 Deposition Exhibit No. 8, and I'll represent to
18 you this is a warranty deed dated September 29,
19 2005.

20 Do you see that?

21 A Yes.

22 Q In this document, it appears that you and
23 your husband transferred lot No. 45 to your son
24 Michael Anthony Francis; is that correct?

25 A Yes, it is.

1 Q What were the circumstances of this
2 conveyance?

3 A My husband was very ill prior to his
4 death, and the doctors told us if there was
5 anything that we wanted to do or whatever prior
6 to his death, that we needed to do it right
7 away.

8 So after much consideration and
9 thought, we decided that the best thing to do
10 would be to deed this property to Michael and I
11 would have a life estate.

12 Q If you look at the bottom of the second
13 and the top of the third pages of this document,
14 it states exactly what you just said, doesn't
15 it?

16 A Yes.

17 Q You have a life estate in the property at
18 lot 45?

19 A Yes, sir.

20 Q And you have continued to live there since
21 executing this warranty deed?

22 A Yes.

23 Q And if this document is correct, the
24 purchase price that Michael, your son, paid is
25 \$30,000?

1 A That's what they allocated it to.
2 Q Is that the accurate purchase price?
3 A Yes, at that time.
4 Q Okay. Is it more now?
5 A I don't -- I assume he wouldn't sell it
6 for that, no.
7 Q Okay. I see. I understand what you're
8 saying. But that was the --
9 A Agreed price.

10 (Marked Exhibit 9.)

11 BY MR. SHERK:

12 Q Ms. Francis, I'd like to turn our
13 attention now briefly to lot 43 for the
14 residence at 126 Island Lane.

15 Okay?

16 A Yes, sir.

17 Q You've just been handed Deposition Exhibit
18 9, and I'll represent to you that this is a
19 warranty deed dated July 18, 2000.

20 Do you see that?

21 A Yes, sir.

22 Q In this warranty deed, it looks as if your
23 husband's parents transferred to you and your
24 husband lot 43?

25 A Yes, they did.

1 Q What were the circumstances of this
2 transaction?

3 A They just transferred the property to us.

4 Q That was the property right next to the
5 place you were already living; correct?

6 A Yes.

7 Q Did your husband grow up there?

8 A No. The subdivision wasn't developed
9 then.

10 Q When he was growing --

11 A We moved there in 1956.

12 Q How long had your husband's parents owned
13 lot 43?

14 A If I remember correctly, they built their
15 house in 1957. I believe they started in the
16 fall of the year, and they moved there and lived
17 there till they died.

18 Q So they lived next door to you, then?

19 A Yes, they did, sir. Mr. Francis died down
20 at my house.

21 Q He passed away at your house?

22 A Yes, he did. We took care of him.

23 Q So for a period of time they lived at the
24 house next door to you, but you owned the
25 property along with your husband?

1 A Yes.

2 (Marked Exhibit 10.)

3 BY MR. SHERK:

4 Q Ms. Francis, you've been handed Deposition
5 Exhibit No. 10, and I'll represent to you this
6 is a warranty deed dated September 29, 2005.

7 Do you see that?

8 A Yes, sir.

9 Q And this warranty deed would appear to
10 convey lot 43 from you and your husband to your
11 daughter Lucinda; is that correct?

12 A Yes.

13 Q And she's identified here as Lucinda
14 Francis Long?

15 A Yes.

16 Q Long being her married name?

17 A Yes, sir. She was married 22 years.

18 Q Is she no longer married?

19 A No, sir.

20 Q How did her marriage terminate?

21 A A divorce.

22 Q What were the circumstances of this
23 conveyance of you and your husband to your
24 daughter Lucinda?

25 A Really, it was rather a personal issue.

1 She wanted to bring our grandson Fraizer to the
2 Oak Ridge school system, and they needed a place
3 to live. And her ex-husband, Scott Long, is a
4 long-time TVA employee. And he was trying to be
5 transferred to Kingston so they could all move
6 next door to us, and we just wanted to provide
7 them a place to live.

8 And we felt that that was something
9 that Bob could do before he died.

10 Q Bob being your husband?

11 A Yes.

12 Q So it was a gesture of kindness?

13 A Yes.

14 Q By you and your husband to your daughter?

15 A Yes.

16 Q She was already divorced at that time?

17 A No. The divorce -- I'm not sure. Scott
18 wasn't able to transfer at that time, and then
19 the divorce transpired, I'm not sure when.

20 Q But in any case, Lucinda and her children
21 moved into that house?

22 A Yes, they did.

23 Q Now, it looks as if, as originally
24 written, this warranty deed preserved for you a
25 life estate in the property; correct? Take a

1 look at page 2.

2 A That would have to be an error.

3 Q It looks like it was an error.

4 A Wouldn't it be? Yes.

5 Q If you look farther back in this document
6 there is a deed of correction.

7 A Yes, I see that. Yes.

8 Q You're looking at the --

9 A Reversing it.

10 Q Right. There's some highlighted material
11 on page 5 of Exhibit 10, right under the heading
12 "Deed of Correction"?

13 A Yes.

14 Q Do you see that? And it indicates that
15 the reversion in the reservation of the life
16 estate was a drafting error; correct?

17 A Yes.

18 Q So was it always your intention and the
19 intention of your husband to convey this
20 property to your daughter Lucinda free and clear
21 of any interest that you might have?

22 A Yes. I can honestly say that I wasn't --
23 it was a difficult time for me with the illness
24 in the family and everything, but I wasn't aware
25 that this had occurred in the deed.

1 Q How did you find out about that?

2 A Just now.

3 Q Oh, you never knew of a deed of
4 correction?

5 A No, sir.

6 Q This was a period of time when your
7 husband was very ill?

8 A Very ill.

9 Q So the long and the short of it is that
10 you have no ownership interest whatsoever in
11 lot 43?

12 A None, sir.

13 Q And that's the property next door to you
14 at 126 --

15 A -- Island Lane. Yes, sir.

16 Q Okay. Would this be a good time for
17 another five-minute break? We've been going
18 about an hour.

19 (Recess.)

20 BY MR. SHERK:

21 Q Ms. Francis, we're back on the record
22 after just a short break.

23 Let's turn our attention to
24 Exhibit 4, which is the big map.

25 Would you be able to locate your

1 property at 132 Island Lane on this map?

2 A If I'm at 555, I believe it's right here.

3 Q Would you mark that in red and label that
4 for me? That's your little peninsula, it looks
5 like to me, too?

6 A Yes. There's a little island at the end
7 of it.

8 Q If you would just mark that with your
9 address, that would be great. Thank you.

10 Where does your son live on Rebel
11 Road on this map?

12 A He lives at 557.3, but I'm really not very
13 good with maps, and he's on the opposite side of
14 the river than I am.

15 Q So he's across the channel; correct?

16 A Yes. I'm confused. But anyway, he lives
17 at 557.3.

18 Q Here's 557.

19 Do you see that?

20 A Yes.

21 Q So he would live someplace over here?

22 A Yes.

23 MR. DAVIS: I'm going to object to
24 the question, unless you're sure.

25 THE WITNESS: I'm not sure.

1 MR. DAVIS: That's fine.

2 BY MR. SHERK:

3 Q Do you have a general area where he would
4 be?

5 A Well, he's at mile marker 557.3.

6 Q It doesn't have to be exact, Ms. Francis.

7 A I'd rather not mark it since I'm not sure,
8 if you don't mind.

9 Q Can you locate your property on Happy
10 Ending Lane on this map?

11 A Not very likely.

12 Q Is it around the cove from where your
13 property is?

14 A Yes, it is.

15 MR. DAVIS: You mean around the bend?

16 THE WITNESS: Yes.

17 BY MR. SHERK:

18 Q Around the bend, yes.

19 A I won't be able to do that, sir.

20 (Marked Exhibit 11.)

21 BY MR. SHERK:

22 Q Okay. Ms. Francis, you've been handed
23 Deposition Exhibit No. 11. I'll represent to
24 you this is an aerial photograph taken on
25 April 17, 2008. We superimposed the tax parcel

1 boundary for lot 45 on that exhibit.

2 Do you have that exhibit before you?

3 A Yes, sir.

4 Q Do you recognize your property on this
5 exhibit?

6 MR. DAVIS: I'm going to object to
7 the question about the property boundary line
8 being accurate. There's no -- this is not the
9 official property map.

10 BY MR. SHERK:

11 Q You can answer.

12 Do you recognize your lot on this
13 map?

14 A Yes, sir, I do.

15 (Marked Exhibit 12.)

16 BY MR. SHERK:

17 Q Okay. Okay. Ms. Francis, you have been
18 handed Exhibit No. 12, and I'll represent to you
19 this is a blowup of Exhibit No. 11.

20 Do you see the outline of your lot on
21 this exhibit?

22 MR. DAVIS: Same objection.

23 BY MR. SHERK:

24 Q You can answer.

25 A It's similar to the shape of my lot, yes.

1 Q Okay. And can you circle your house on
2 this lot -- on this map?
3 A Okay.
4 Q And where is your dock?
5 A Right here.
6 Q You can circle your dock. It's okay.
7 A Do you want the boathouse circled?
8 Q Sure. So there's a dock and boathouse?
9 A Yes, sir.
10 Q And would this be your daughter Lucinda's
11 house to the north of your house?
12 A Yes.
13 Q Okay. Very good.
14 A And this is our carriage house or garage
15 right there.
16 Q Why don't you label those two properties
17 that are on your lot as the house and carriage
18 house.
19 A Uh-huh. It's really a three-car garage,
20 but Bob called it his carriage house.
21 Q That's poetic.
22 Now, let's turn our attention away
23 from your property at 132 Island Lane and let's
24 talk -- oh, gosh, let's talk about the property
25 that you referred to earlier off Happy Ending

1 Lane.

2 Okay?

3 A Yes, sir.

4 Q All right. So you currently possess three
5 lots off Happy Ending Lane; is that right?

6 A Yes.

7 Q How did you come in possession of those
8 lots?

9 A They were willed in my parents' will.

10 Q Okay. Did your son ever own those lots?

11 A Which son?

12 Q Michael.

13 A No, sir.

14 MR. DAVIS: Are we through with these
15 exhibits for now?

16 (Marked Exhibit 13.)

17 BY MR. SHERK:

18 Q Ms. Francis, you've been handed Deposition
19 Exhibit No. 13. I'll represent to you that this
20 is a warranty dated -- warranty deed dated
21 October 5, 2005.

22 Do you see that?

23 A Yes, I do. And I must have misspoken
24 previously. These lots were transferred many
25 times after the initial will. I had two

1 sisters. Each sister was awarded a lot in the
2 will. And one sister was deceased. I'm not
3 sure how all the deeds were transferred, but at
4 some point in time, I think my mother willed my
5 sister's deed -- I'm not -- I'm not sure how it
6 went, sir.

7 But anyway, they have -- my sister
8 Joy, who lived in Florida, didn't have any need
9 for the lot, and since I resided in Tennessee,
10 she put the deed in my name. But somehow now
11 all of the deeds to the three lots that were
12 willed to the children are in my name.

13 I can't give you the correct
14 sequence. I'm sure you have copies of all of
15 them.

16 Q I confess, Ms. Francis, it's a confusing
17 situation, and I certainly don't have all the
18 answers.

19 But I do have this recent document,
20 Exhibit 13, that indicates that your -- it looks
21 like your son Michael transferred title to these
22 three lots to you and your husband.

23 A That's right.

24 Q So does it spark a recollection that, at
25 one point in time, your son Michael did obtain

1 title to these three lots?

2 A Yes. Yes, he did. And I apologize for
3 not remembering. All of this is very confusing.

4 Q How was it, then, that in October of 2005
5 Michael conveyed these properties, these three
6 lots, to you and your husband?

7 A What was the date of the conveyance?

8 Q It's right at the top of 13.

9 A October?

10 Q October 5, 2005.

11 A Okay. I believe that it coincided with
12 deeding Michael our residence. And in the
13 agreement, he deeded this property back to us.
14 I think that's how that transpired.

15 Q That makes sense to me.

16 A Because it's in the same time frame.

17 Q I think it's exactly the same day.

18 A Okay.

19 MR. DAVIS: Object to that. She's
20 talking about the September 29 versus October 5.

21 BY MR. SHERK:

22 Q If you look at the last page of
23 Exhibit 13, it lists the purchase price, and
24 I've highlighted that down at the bottom as
25 \$30,000; is that correct?

1 A I'm sure we listed that for tax purposes
2 at the assessor's office.

3 Q Okay. But there's no doubt in your mind
4 that the ownership interest in these three lots
5 was transferred to you and your husband?

6 A Not at all. None.

7 (Marked Exhibit 14.)

8 BY MR. SHERK:

9 Q Ms. Francis, you've been handed Deposition
10 Exhibit No. 14. I'll represent to you this is
11 an aerial photograph taken April 17, 2008, where
12 we have superimposed the tax parcels for the
13 three lots on Happy Ending Lane onto this
14 photograph.

15 Did you see that?

16 A Yes, sir.

17 Q These three lots are lots 12, 13, and 14;
18 is that correct?

19 A Yes, sir.

20 Q Do you know which lots are which?

21 MR. DAVIS: Let me -- I'm going to
22 object to the question, first of all, to the
23 extent that the photograph is not an official
24 photograph that shows the official property
25 boundaries.

1 You may answer if you know.

2 THE WITNESS: I really don't know.

3 Like I say, it is a confusing thing.

4 (Marked Exhibit 15.)

5 BY MR. SHERK:

6 Q It is.

7 Ms. Francis, you've been handed
8 Deposition Exhibit No. 15. I'll represent to
9 you that this is just a big blowup of Deposition
10 Exhibit 14.

11 A Yes, sir.

12 Q Do you have that in front of you?

13 A Yes, I do.

14 Q And you see the two lots -- three lots at
15 Happy Ending Lane?

16 A Yes.

17 MR. DAVIS: Object to the question to
18 the extent it doesn't show official property
19 boundaries.

20 BY MR. SHERK:

21 Q What is the road that runs right beside
22 one of the three lots of Happy Ending Lane?

23 A That's normally referred to as River Road,
24 but it's Highway 304.

25 Q Are these lots considered to have river

1 access?

2 A Yes.

3 Q Okay. And how is that, Ms. Francis?

4 A Because the slough comes up under this
5 under grove, I think, behind these two.

6 Q And this is now undeveloped property;
7 correct?

8 A Yes.

9 Q Okay. So if somebody wanted to, they
10 could -- they could presumably clear some of
11 this brush and trees out and make a path to the
12 water; correct?

13 A Yes.

14 Q Do you --

15 A There is a road here, actually, it's very,
16 very pretty down in here. And it comes from the
17 highway.

18 Q And you're referring to the brush that is
19 between your lots and --

20 A And the lake.

21 Q -- and the lake, okay.

22 Do you have any plans to develop
23 these lots?

24 A I haven't thought about it at this point
25 in my life.

1 Q So just to recap, Ms. Francis, in this
2 lawsuit, the properties that you own that are
3 implicated are at 132 Island Lane and these
4 three lots by Happy Ending Lane; correct?

5 A Yes, sir.

6 Q Okay. Great.

7 You purchased the property at 132
8 Island Lane prior to being married; correct?

9 A Yes.

10 Q How was it that you made the decision that
11 you wanted to purchase that lot?

12 A Well, I was a 16-year-old girl, and I
13 loved the farm. And I always walked back to the
14 lake back there through the cornfield and would
15 sit on a log back there on the river. And I
16 just loved that piece of property.

17 Q Did you approach your father about
18 purchasing it from him?

19 A I guess eventually I did. But it's very
20 odd. Back then it wasn't cool to live on the
21 lake, and that's why it was so reasonable, I
22 guess. The inside lots sold much -- much faster
23 than the ones on the lake. And so that lot kept
24 laying there and laying there. And I was
25 working and living at home with my parents, and

1 so I approached my dad and we struck a deal.

2 Q Did the TVA Kingston facility exist at
3 that point in time?

4 A Yes. I was working at the Kingston steam
5 plant.

6 Q That's right. That's right.

7 A That's how I paid for it.

8 Q Can you see the TVA Kingston facility from
9 your house at 132 Island Lane?

10 A No.

11 Q Can you see the two tall stacks of the
12 Kingston facility?

13 A No.

14 Q How far is it by river from 132 Island
15 Lane to the Kingston facility?

16 A This is a guesstimate on my part, but I
17 would say probably five miles, because it's two
18 and a half miles from my house up to the Highway
19 58 bridge. And I assume that's about midway.

20 Q If you had to drive from your house at 132
21 Island Lane to the Kingston facility, TVA
22 facility, how long would it take you?

23 A I'm not sure. Would you say 15 or 20
24 minutes, maybe, with the traffic?

25 Q All right. What location is the Kingston

1 facility from your property at 132 Island Lane?

2 A You mean like north, south, east, west?

3 Q Uh-huh. Yes.

4 MR. DAVIS: You may refer to a map,
5 if you need to.

6 BY MR. SHERK:

7 Q Yeah, please. We have many of them.

8 A I'd say -- I'm not very good
9 geographically, but probably south.

10 Q Here's the --

11 A You mean it would be north? North, yeah.
12 I told you I'm not much --

13 Q I think you'd be -- if this is north, then
14 this would be south?

15 A Okay. And if I'm here, that would be sort
16 of north.

17 Q It would be north of you; correct?

18 A Uh-huh.

19 Q So your house would sit south of the --

20 A Steam plant, yes. I'm sorry, I was
21 incorrect.

22 Q No, that's fine.

23 Okay. How would you describe your
24 neighborhood?

25 A It's just a residential neighborhood from

1 the '50s. And some of the homes have been
2 updated and kept up very well, and others not so
3 well, you know. And then we have some new homes
4 that are really lovely.

5 Q How would you describe your view from your
6 house?

7 A Wonderful.

8 Q Would you say that your property has got
9 one of the best locations on the peninsula?

10 A I'm the only one on the peninsula and --
11 no, I'm not, because the rest of the subdivision
12 was developed after the initial development. So
13 we have other pieces that are on peninsulas.

14 But I haven't been on those, and I'm
15 not familiar with their view, since they've been
16 developed.

17 (Marked Exhibit 16.)

18 BY MR. SHERK:

19 Q Okay. Ms. Francis, you've been handed
20 Deposition Exhibit No. 16, and I'll represent to
21 you that this is a -- a collection of
22 photographs that I have stapled together just to
23 make things go a little bit quicker. And please
24 take your time to review those photographs.

25 A Yes.

1 Q Looking at the first page of Exhibit 16.

2 What does that photograph depict?

3 A It's a view from out in the river of our
4 house and the point and the boathouse.

5 Q So that's your boathouse right there?

6 A Yes.

7 Q If we look at page 2 of Exhibit 16, what
8 does that photograph depict?

9 A The boathouse with its torn curtain. We
10 just replaced it. Sometimes the wind is hard on
11 things on the lake.

12 Q So the boathouse is in the foreground, and
13 your house is behind it?

14 A Yes, and with our dock. The dock's 80
15 feet long.

16 A The dock's got an American flag on it, I
17 see.

18 A Yes, I try to keep a flag.

19 Q And to the left of the American flag, it
20 looks like the dock juts out a little bit?

21 A Yes.

22 Q Is that used for swimming and --

23 A It has been in the past.

24 Q Okay. Let's turn to the next page, page 3
25 of Exhibit 16. What does this depict?

1 A A side view of the boathouse and a back
2 view of the house and some of the pine trees and
3 riprap. We tried to riprap all around the shore
4 to conserve the land because we would lose five
5 to ten feet a year. I mean, the erosion was
6 horrible.

7 Q What is riprap?

8 A The big rock that you see. TVA uses it
9 extensively.

10 Q Has the riprap worked?

11 A Yes. We've had to replenish it through
12 the years.

13 Q But it stopped the erosion to some extent?

14 A Yes. You sort of have to pop it off
15 because it has a way of settling down.

16 Q Sliding down into the water?

17 A Uh-huh.

18 Q Okay. Let's go to the next page, page 4
19 of Exhibit 16. What does this depict?

20 A That's the point.

21 Q Okay. All right. That shows the end of
22 the peninsula that you live on?

23 A Yes.

24 Q The next page is Exhibit 5. What does
25 this page show?

1 A That shows a pine tree very near the tip
2 of our property.

3 Q Okay. Turning to the next page, page 6 of
4 Exhibit 16, have we turned the corner on the
5 peninsula in this picture?

6 A Yes.

7 Q So this shows the other side of your
8 property; correct?

9 A That goes what we call the slough.

10 Q All right. Page 7 of Exhibit 16, what
11 does this show?

12 A A gate.

13 Q Is that the gate to your house?

14 A Yes, it is.

15 Q Okay. And your house is there shown
16 beyond the gate then?

17 A Yes, sir.

18 Q And then the final page of Exhibit 16,
19 page 8?

20 A Yes.

21 Q What does this depict?

22 A Lucinda's house.

23 Q That's the house next door?

24 A 126 Island Lane.

25 Q That's your daughter's house next door to

1 you?

2 A Yes.

3 Q Okay. Great. What was your house on the
4 132 Island Lane built of? For example, wood,
5 brick or stone?

6 A The basement is block, of course, with the
7 concrete floor originally, and we have redwood
8 siding on the exterior with mountain stone as a
9 trim.

10 Q How many floors does your house have?

11 A Two.

12 Q Do you know how many square feet your
13 house consists of?

14 A Not really.

15 Q How many bedrooms does your house have?

16 A Three.

17 Q How many bathrooms?

18 A Two.

19 Q Do you have any foundation problems at
20 your house?

21 A No, sir.

22 Q Does the basement leak?

23 A No. We had a system installed around it
24 where it doesn't leak. I don't remember the
25 name of it.

1 Q And when was that put in?

2 A I'm guessing, I would say, 15 years or so
3 ago.

4 Q Okay. Has your home ever been tested for
5 radon?

6 A No.

7 Q Do you have a porch or a patio off your
8 house?

9 A I have a patio under my back deck, and I
10 have a slab at the front porch, the front door,
11 and I have a deck off of the back, towards the
12 point.

13 Q Ms. Francis, if you were to look at the
14 second photograph on Exhibit 16, does that
15 show --

16 A This is the deck that's all the way across
17 the end of the house that faces the Tennessee
18 River.

19 Q That's --

20 MR. DAVIS: Let him ask the question.

21 THE WITNESS: Oh, I'm sorry.

22 BY MR. SHERK:

23 Q You did a wonderful job of clairvoyance.
24 That's exactly what I was going to ask.

25 The question was does this picture

1 show the deck that you were just talking about?

2 A Yes, sir.

3 Q And that's the deck -- that's the

4 structure coming off the house that we're

5 looking at in this photograph; correct?

6 A Yes.

7 Q The darker wooden structure?

8 A Yes. It's a redwood deck.

9 Q And is there a patio below that deck, I

10 think you said?

11 A Yes.

12 Q Okay. Are the windows original with this

13 house?

14 A No, sir.

15 Q You've replaced them, then?

16 A Yes, sir.

17 Q When were they replaced?

18 A I don't really recall.

19 Q While your husband was still alive?

20 A Yes.

21 Q Okay. Do they function well?

22 A Very well.

23 Q What type of heating and air conditioning

24 unit do you have?

25 A A heat pump. Carrier, I believe.

1 Q Does that work reasonably well?
2 A Seems to be efficient, yes.
3 Q Do you have any window units, air
4 conditioning units?
5 A No, sir.
6 Q Okay. What flooring do you have in your
7 house?
8 A I have hardwood and porcelain tile and
9 vinyl in one bathroom and vinyl in the kitchen.
10 Q What is your source of water?
11 A A well.
12 Q Has that always been the case?
13 A Yes.
14 Q Where is the well located in your
15 property?
16 A The picture here that we just referred to,
17 the well is under the deck on -- it's in the
18 patio there. It's very close to the house.
19 Q And you're referring to the second page of
20 Exhibit 16?
21 A Yes.
22 Q Okay. Do you have any home improvement
23 projects planned for your house at 132?
24 A Not currently.
25 Q Okay. Have you just completed any home

1 improvement projects?

2 A Yes. Last year we remodeled and --
3 remodeled the 1956 bathroom that had been pink.
4 It is now porcelain with a walk-in shower, and
5 refinished all of the floors, painted and put up
6 crown molding. It was a pretty extensive
7 remodel. It took several months.

8 Q It sounds as if it was a -- kind of an
9 overall makeover of the house?

10 A Yes.

11 Q Okay. And what prompted you to do that
12 remodeling job?

13 A Well, when a house is as old as ours, it
14 requires updating, and I wanted a more modern
15 bathroom that I could access easier.

16 Q Is that the master bathroom that was
17 redone?

18 A Yes.

19 Q Okay. Do you currently run any kind of
20 business out of your home?

21 A No, sir.

22 Q I believe you said before you ran a -- was
23 it a dog grooming business?

24 A I groomed small animals for a brief
25 period, from 1968 till 1976.

1 Q What kinds of animals did you groom?

2 A Mostly poodles, some schnauzers, cockers.

3 Q All dogs?

4 A Yes.

5 Q So you didn't -- you didn't groom, you
6 know, like ferrets or squirrels or anything like
7 that?

8 A No, sir.

9 Q I'm just teasing.

10 MR. DAVIS: That would be an
11 interesting job.

12 BY MR. SHERK:

13 Q Do you currently have any pets at the
14 house?

15 A Yes, I do.

16 Q What sorts of pets do you have right now?

17 A I have three female dogs.

18 Q What breeds are they?

19 A I have a Brussels Griffon and -- it was
20 given to us for our 50th anniversary. And I
21 have a -- sort of a rescue mixture of a Jack
22 Russell terrier and a border collie that is very
23 lovely, Lucy, she's 10 years old. And I have a
24 Japanese Chin that is about a year and a half
25 old.

1 Q Do you take them on walks?

2 A Yes.

3 Q Do you allow them to range free on your

4 property?

5 A I have a fence in the backyard.

6 Q So they can run around within a fenced

7 area?

8 A Yes. It's off the back deck.

9 Q Do you also take them on walks?

10 A Sometimes on a lead.

11 Q What types of properties are located

12 around you?

13 A They're all residential, to my knowledge.

14 And it's a very lovely, quiet neighborhood.

15 Most of us are older. And we have one house

16 that's empty now, but it's not often that we

17 have a place to be vacant.

18 Q Have you given your counsel photos or

19 videos of your house and the surrounding area?

20 A No.

21 Q Do you have any such photos and videos?

22 A No. Well, we have our normal family

23 photographs, you know, but just personal.

24 Q Okay. We've talked about your property at

25 Happy Ending Lane; correct?

1 A Yes, sir.

2 Q You own the property, but have no current
3 plans to develop it; correct?

4 A Not at this moment, no, sir.

5 Q Does anybody use it for camping or
6 hunting?

7 A Not to my knowledge.

8 Q I take it that's not something you would
9 encourage?

10 A No, sir.

11 Q How would you describe your typical
12 weekday at 132 Island Lane?

13 MR. DAVIS: I'm going to object to
14 the question. It's vague, and it doesn't really
15 specify a time period.

16 BY MR. SHERK:

17 Q You can answer.

18 A It's a large piece of property, as you can
19 see. And it consumes my time to keep it up. I
20 try to keep it up and the yard well groomed. I
21 mow it myself, and so -- and I love to garden.
22 So that takes a lot of my time. And I volunteer
23 at the church two days a month and sometimes a
24 third day if they need me.

25 Q Do your weekends differ dramatically from

1 your weekdays?

2 A I go to church on the weekend.

3 Q Do you receive more family visitors on the
4 weekend than you do during the weekday?

5 A No, sir.

6 Q Other than going to church, are your
7 weekends pretty much the same as your weekdays?

8 A I try to work less on Sunday.

9 Q Do you have any hobbies?

10 A I guess the gardening and the pets.
11 Through my life, I've done most crafts and
12 handwork. But after you get so much of that,
13 you know, the appeal lessens.

14 Q So you don't do so much of the crafts
15 today as you used to?

16 A No. No.

17 Q You do the lawn work yourself, you said?

18 A Yes, sir.

19 Q Do you have a riding mower?

20 A Yes, I do.

21 Q Do you also have a hand mower?

22 A Yes, I do.

23 Q Do you use them both?

24 A Yes.

25 Q Do you also take care of the shrubs?

1 A Yes.

2 Q How long does it take you to mow your
3 property?

4 A If I mow it all at once, it takes me
5 about -- between three and four hours.

6 Q And that's with a riding mower?

7 A Yes.

8 Q You mentioned a garden. Where is that
9 located on your property?

10 A I have several flowerbeds around the
11 house, one immediately in front of the house,
12 one to the slough side of the house, one behind
13 the carriage house, and one to the side of the
14 carriage house with a gas pump close to it.

15 So you have to sort of stay on top
16 of that.

17 Q Do you have a vegetable garden?

18 A No. I have some tomato plants and pepper
19 plants in my flower garden.

20 Q Do you take care of the trees on your
21 property?

22 A I observe them, and I have to call in the
23 tree person if something needs to be done or if
24 they get blown down or a diseased or whatever.

25 Q Otherwise you keep them trimmed yourself?

1 A Yes, what I can reach.

2 Q Do your sons and -- or daughter or
3 grandkids ever help you out with the yard work?

4 A When Michael comes in, he helps me if I
5 need something.

6 Q Does the amount of work that you spend on
7 the yard and your flower gardens vary by season?

8 A Of course. There's less to do in the
9 winter.

10 Q Do you retain a service to fertilize your
11 lawn and use pesticides, that type of thing?

12 A No.

13 Q Do you do that yourself?

14 A We just put down some bagged lime to --
15 I'm trying to grow some grass in the front yard.
16 Yes, we do.

17 Q Do you do a lot of entertaining at your
18 house?

19 A Do you mean now or before the ash spill or
20 what are you referring to?

21 Q Let's start with before the ash spill.

22 A Yes, we did.

23 Q That was when your husband was alive?

24 A Yes.

25 Q And he died in 2006?

1 A Yes. We had many family reunions there,
2 car meetings there, all the family gatherings
3 were there, situated around the boat dock, you
4 know.

5 And at one point -- this really
6 sticks out in my mind -- the Methodist church,
7 some of the children requested to be baptized in
8 the lake, and they came out to the house and had
9 a baptism there on the river. And my daughter
10 happened to be one of the children being
11 baptized.

12 But we had many functions there.
13 It's been quite a gathering place.

14 Q Okay. How -- have things changed then
15 since the spill?

16 A Yes, they have.

17 Q How's that?

18 A Well, we don't seem to gravitate to the
19 lake much anymore. Most of our functions are at
20 the house or we meet or go on out to a
21 restaurant or something.

22 Q Could part of the change in how you
23 entertain be a function of the fact that you're
24 now a widow?

25 A I don't think so, no, not entirely because

1 I'm still very active socially.

2 Q Could part of how you entertain
3 differently be a function of just your age and
4 preferring to entertain in a different way?

5 A I wouldn't think so.

6 Q How have you used the lake over the years?

7 A Well, the lake -- I don't know whether you
8 could understand it, but it was absolutely our
9 life. I mean, we boated all the time. We
10 couldn't wait for the children to get old enough
11 to water ski, and we camped on the lake for our
12 vacations in the summer. Bob took us down the
13 river from our launching ramp to the mouth of
14 the Mississippi in our little runabout boat. I
15 mean, it was just our life, and we loved being
16 on the water.

17 Q Okay. did you swim in the river?

18 MR. DAVIS: Object to the question.
19 You didn't specify a time period.

20 THE WITNESS: When are you referring
21 to, sir?

22 BY MR. SHERK:

23 Q Pre-spill.

24 A Pre to the ash spill, yes, we swam in the
25 water.

1 Q Okay. You indicated that you did a lot of
2 boating?

3 A Yes, we did.

4 Q Okay. And did you fish?

5 A Yes, we did.

6 Q Who were the fishermen and women in your
7 family?

8 A My husband, mainly, and of course, the
9 children learned to fish when they were little.

10 Q Do you still use your boat?

11 A My daughter uses the boat that's in the
12 boathouse, but I don't take the boat out myself.

13 Q Why is that?

14 A I just don't.

15 Q You just don't feel like doing it, or --

16 A No. It's quite a bit of responsibility to
17 go out at my age alone in a boat, you know.

18 Q Do any of your grandkids these days boat
19 or ski in the lake?

20 A My grandson Fraizer goes out with his mom
21 in the boat for a ride. I haven't seen him ski.

22 Q How old is Fraizer?

23 A 17.

24 Q Have you ever owned a jetski?

25 A My grandsons have owned jetskis.

1 Q Did they keep them at your place?

2 A They brought them there on vacations.

3 Q Do they live in Clifton?

4 A Good memory.

5 Q Has anybody ever used your property for
6 hunting?

7 A No.

8 Q How about trapping?

9 A Not to my knowledge.

10 Q Okay. We talked a little bit about the
11 presence of fly ash earlier in your deposition.

12 Do you remember that?

13 A Yes, I do.

14 Q Have you actually seen fly ash since the
15 spill in December 2008.

16 MR. DAVIS: I'm going to object to
17 the question. It's vague. There's no
18 definition.

19 BY MR. SHERK:

20 Q You can answer.

21 A Yes, I've seen it done on my shore and on
22 my dock and on my launching ramp.

23 Q Let's look at this. We have a big blowup
24 here.

25 Ms. Francis, let's look at

1 Exhibit 12. That's the big blowup of the aerial
2 photograph.

3 Do you see that?

4 A I understand.

5 Q Okay. Where -- could you mark with a --
6 let's see, use this black Sharpie -- where you
7 see -- where you, in the past, have seen fly
8 ash.

9 A Do you want me to show you where they
10 cleaned up the fly ash from my shore?

11 Q Sure.

12 A Okay. There's a line between my
13 daughter's house, you know, the line from our
14 property.

15 Q Property line.

16 A They actually cleaned up fly ash in front
17 of her place all the way down to my point.

18 Q Okay. Go ahead and just draw a line.

19 So the black line on Exhibit 12 is
20 fly ash that gentlemen and women, perhaps, came
21 out to clean?

22 MR. DAVIS: I'm going to object to
23 the question again in terms of you haven't given
24 a definition of fly ash.

25 BY MR. SHERK:

1 Q You can answer.

2 A Several men came out after I reported the
3 fly ash to the control center to TVA, and they
4 brought many trucks and a Mule and were there
5 several days shuffling this fly ash up from the
6 beach and putting it in plastic bags and hauling
7 it off.

8 Q When did that operation take place?

9 A Well, it was very soon after the spill. I
10 would say -- I'm guessing, sir, but I would say
11 in January or February. I know there's some
12 documentation here that shows where I made a
13 note about that process. But I didn't retain
14 any notes, and my memory is not really that
15 sharp.

16 Q I think you're doing pretty well.

17 A Thank you. Thank you very much.

18 Q Let's go back and talk to right after the
19 spill.

20 Okay?

21 A Yes.

22 Q You're on your property?

23 A Yes.

24 Q And did you actually see material that you
25 believed was fly ash?

1 A Yes.

2 Q Did you pick up the phone then and make a
3 call?

4 A No. I went up to the center to talk with
5 them because I was very disturbed. I didn't
6 know whether it was harmful or what to do, but I
7 just told them of what I saw. And then this
8 real nice man, I believe his name was Mr. Brown,
9 came out and inspected it.

10 Actually, as the lake level elevates
11 you know, fluctuates, it would leave deposit --
12 a line of ash, and then it would go down and
13 then it would leave another, you know. And
14 sometimes there were two or three lines of the
15 ash that they had to scoop up.

16 Then after they scooped it up, they
17 manufactured some kind of drag that they pulled
18 behind the Mule to level the sand on the beach.
19 I'm very fortunate we have sand around our
20 point. So they tried to straighten out the
21 shore after they had raked and shucked it up.
22 So I did see fly ash.

23 Q This was in January or February of 2009?

24 A Yes, sir. It would had to have been.

25 Q Was this a one-day operation or did it

1 take longer than that?

2 A No, it was several days.

3 Q Several days, okay.

4 Mr. Brown was involved along -- was
5 Mr. Brown involved, or did he just --

6 A He was sort of the supervisor, the liaison
7 between, you know, me and the men. The men, you
8 know, they just worked.

9 Q Okay.

10 A Now, I could be wrong about the date, but
11 it was in that time period somewhere shortly
12 after the spill.

13 Q Okay. To your knowledge, was the material
14 that was collected ever tested by anyone?

15 A I'm not privileged to that information.

16 Q Did you ever collect any material and save
17 it and have it tested?

18 A No, I did not.

19 Q Okay. Did you ever collect any material
20 that you believed consisted of fly ash and turn
21 it over to your counsel?

22 A No, I did not.

23 Q Okay. Other than the operation that
24 happened in January or February 2009, have there
25 been other instances where you believe you saw

1 fly ash on the area around your house?

2 A Yes. The water does come up behind me in
3 the slough, but it really isn't the most
4 pleasant part of my property because the water
5 is rather stagnant back there and it has a lot
6 of debris in it, you know, maybe tires or
7 just -- you know, it's really not very pretty.

8 Q Chunks of wood?

9 A Yes. Chunks of wood.

10 Q River scum?

11 A Yes. Leaves, because it just -- there's
12 no current back there.

13 And I was concerned about -- I
14 thought that I saw a lot of fly ash in the
15 slough, and I thought this would be good to have
16 TVA clean that up, too. And a young man came
17 out and looked at it, and he told me that he
18 didn't believe it was fly ash. But I think it
19 was fly ash back there, the same that was here
20 because the current comes down and it edges
21 around my point and it will kick up -- kick
22 drift up in this way. You can see things
23 floating in it.

24 So I have seen it behind my house.

25 Q When did the gentleman come out and take a

1 look at the slough?

2 A I really can't say, but I'm sure it was in
3 the time period shortly after the spill, or
4 maybe early spring, I don't know.

5 Q Okay. In the --

6 A I'm sorry --

7 Q -- first six months?

8 A Yes. I'm sorry, I don't know his name.

9 Q Okay. I believe earlier today you
10 mentioned that you had called the TDEC and asked
11 them to do a water test of your well?

12 A Yes.

13 Q When did you make that request?

14 A Now, I'm not sure, sir, whether -- when I
15 went to the command center and, you know, after
16 the girl delivered water to me, I became
17 concerned about the well. And I went up and
18 talked with them up at the command center. And
19 I believe that they're the ones who sent TDEC
20 out to the house.

21 And there was a mix-up over the well
22 sampling, whether they had actually been there
23 or not, because they said that they were there
24 on a date when I was there all day and I didn't
25 see anyone. Usually my little dogs will bark,

1 and I'll know.

2 But -- so I was concerned that
3 possibly it really hadn't been done, so I
4 requested -- called myself to TDEC and asked
5 them to please retest my well. And they did
6 come back.

7 Q Okay.

8 MR. DAVIS: Let me know when a good
9 time for a break would be. It's been about an
10 hour.

11 (Recess.)

12 (Marked Exhibit 17.)

13 BY MR. SHERK:

14 Q Ms. Francis, we're back on the record
15 after a short break.

16 You've been handed Deposition Exhibit
17 No. 17, and I'll represent to you that that's a
18 document that we received from your counsel
19 Bates numbered 32 through 36. It's a letter
20 dated January 12, 2009.

21 Do you see that?

22 A Yes, sir.

23 Q We've just been talking about the water
24 testing that was done at your property; correct?

25 A Yes, sir.

1 Q Do you recall having received this letter?

2 A Yes, sir. And that's my writing up there
3 saying that I received it.

4 Q It says, "Received 1/14/09"?

5 A Yes.

6 Q And this is a letter from Steven P.
7 Roberts to you; correct?

8 A Yes.

9 Q Now, this concerned the first testing of
10 the well at your property?

11 A Yes.

12 Q But this is the test that you were unsure
13 about; is that right?

14 A Yes, it is.

15 Q Now, as I recall, from looking at the
16 notes that you provided to your counsel, you
17 were concerned that someone may have been
18 mistaken about the well they tested because you
19 had been there and didn't see anybody come?

20 A That's right. And if the water is turned
21 on at my house for any length of time, which
22 they're supposed to let it run, the pump turns
23 on, you know. So living alone, I would be aware
24 of anything, you know -- of my surroundings. So
25 I wasn't sure if they've been there. But they

1 say they were there.

2 Of course, that was December 31,
3 which is New Year's Eve, which is odd.

4 Q Right. This is a New Year's Eve test, it
5 purports to be?

6 A Uh-huh.

7 Q Now, in the middle of the second
8 paragraph, about halfway down, there's a
9 sentence that says,

10 "Please be assured that
11 these constituents do not pose a
12 health problem for you or your
13 family."

14 Do you see that?

15 A Yes, I do.

16 Q When you received this letter, did you
17 have some skepticism about the test?

18 A Yes, I did. As I've expressed before, I
19 wondered if they'd really been there.

20 Q So you went to the control center and
21 spoke with them, or did you call TDEC directly?

22 A I think I called TDEC directly, if my
23 memory's correct.

24 (Marked Exhibit 18.)

25 BY MR. SHERK:

1 Q Ms. Francis, you've been handed Deposition
2 Exhibit No. 18, and I'll represent to you this
3 is a document we've received from your counsel,
4 Bates numbered 37 through 41.

5 It's a letter dated January 20,
6 2009.

7 Do you see that?

8 A Yes, sir.

9 Q This is a letter from Mr. Steven P.
10 Roberts to you?

11 A Yes.

12 Q Does this pertain to the second water
13 sampling by TDEC that was done at your house?

14 A Yes. Evidently it was done on January 12.
15 I watched them do that. They had about three
16 men out there.

17 Q Personally you verified that --

18 A Yes.

19 Q -- this one took place?

20 A Yes. Yes.

21 Q In the second paragraph of this one-page
22 letter it reads:

23 "After review of the
24 analytical results from the
25 well, there were no constituents

1 that we sampled for in your
2 water supply that are above the
3 drinking water standards
4 developed to protect public
5 health."

6 Do you see that?

7 A Yes.

8 Q After having received this letter, did you
9 feel reassured that your drinking water was
10 okay?

11 A I felt much better.

12 Q Since the TDEC water test in January -- in
13 January of 2009, have you called TDEC or
14 otherwise reached out to have additional well
15 tests done?

16 A I believe that I had a talk with this
17 Mr. Roberts. I'm not sure. It might be in my
18 notes. But I asked him since the spill and the
19 possibility of the aquifer being contaminated
20 some way, would it be possible or should we
21 examine and test the well on a periodic basis.
22 And he informed me that they weren't set up to
23 do that type thing.

24 Q Okay. So no additional tests have taken
25 place?

1 A No, sir.

2 Q Have you on your own requested that
3 somebody come out and test the well at your
4 expense?

5 A No.

6 Q Okay. Do you intend to have that done?

7 A There's a possibility that I might in the
8 future, I don't know.

9 (Marked Exhibit 19.)

10 BY MR. SHERK:

11 Q Okay. Ms. Francis, you've been handed
12 Deposition Exhibit No. 19, and I'll represent to
13 you that is a document we got from counsel.
14 It's entitled "Blanchard Sampling," and it's
15 Bates Nos. 65 through 68.

16 Were you aware that someone retained
17 by your counsel had performed a water test at
18 your house?

19 A On my well?

20 Q Well, I'm not sure about that. Did you
21 ever meet a gentleman named Barry Sulkin?

22 A Not to my knowledge.

23 MR. DAVIS: Off the record just one
24 second.

25 (Off the record.)

1 MR. SHERK: Back on the record.

2 Q Ms. Francis, I believe that you indicated
3 that this document is foreign to you; is that
4 correct?

5 A Yes, it is.

6 Q Okay. And your counsel noted that the
7 water sampling that appears to have occurred
8 here occurred with Francis Roberts Landing
9 location; correct? And that's where your son
10 lives?

11 A Yes, at 190 Rebel Road.

12 Q So as far as you know, no one named Barry
13 Sulkin ever did any water sampling at on your
14 property?

15 A Not to my knowledge.

16 Q Okay. Thinking about your property at 132
17 Island Lane, Ms. Francis, are you aware that
18 your property line is the 750 contour?

19 A Oh, yes.

20 Q Have you had issues over the years with
21 TVA about the use of their property outside of
22 your property line?

23 A What do you -- define issues, please.

24 Q Yeah. Has there been disputes or
25 litigation about -- between your family and TVA

1 about the use of TVA property over the years?

2 A There's a possibility some neighbors
3 complained over a sty that was over a fence. We
4 had a pony at one time and a barbed-wire fence,
5 so we had a sty. And people complained that
6 they couldn't navigate over it. That might have
7 been an involvement.

8 Are you referring to something else?

9 Q Were there disputes between your family
10 and TVA about fencing on TVA property?

11 A Oh, yes, yes.

12 Q Were there ever disputes about buildings
13 of any sort beyond your property line on TVA
14 property?

15 A There was an edge off a boathouse that we
16 used for our pony's little barn when the
17 children were little that they thought might be
18 over the edge of the 750 a little. But we
19 nudged it up with a tractor.

20 Q Okay. That took care of that problem?

21 A Yes.

22 Q Was there ever a dispute between your
23 family and TVA about crops being grown on TVA
24 property?

25 A Not to my knowledge.

1 Q How about farm animals on TVA property?

2 A Not to my knowledge. Our pony died when
3 he was 25.

4 Q Has your property at 132 Island Lane ever
5 been appraised?

6 A I'm sure it's been appraised by the tax
7 assessor people.

8 Q Leaving those folks aside, has there ever
9 been another occasion where your property has
10 been appraised by a real estate agent or someone
11 like that?

12 A We haven't had it appraised, no.

13 Q Have you ever had the property that you
14 own at Happy Ending Lane appraised?

15 A No, sir.

16 Q Okay. How much do you believe your house
17 at 132 Island Lane is worth?

18 MR. DAVIS: Objection to the
19 question unless you state a period of time.

20 BY MR. SHERK:

21 Q How much do you believe your property at
22 132 Island Lane is worth now?

23 A I really don't know. I really don't.

24 Q Would you have been able to make an
25 estimate how much your property at 132 Island

1 Lane was worth before the spill?

2 A I don't have any reference there.

3 Q Okay. Would your answer be the same with
4 regard to the Happy Ending Lane property?

5 A I'm sorry, I've lost my line of thought
6 because -- would you please repeat the question?

7 Q Sure. Do you have any idea what your
8 property at Happy Ending Lane is worth today?

9 A Other than the appraisal from the county,
10 but we're putting that aside, no.

11 Q Right. Would your answer be the same
12 pre-spill for Happy Ending Lane?

13 MR. FRIEDMAN: Objection to the
14 question. That's a confusing question.

15 THE WITNESS: Very confusing. I
16 would say that our property was worth more
17 before the spill because there's been so much
18 publicity and in the media about the spill.

19 BY MR. SHERK:

20 Q Okay. Have you retained a real estate
21 professional or anyone else to make an analysis
22 of that for you?

23 A No.

24 Q Do you have homeowner's insurance on your
25 property at 132 Island Lane?

1 A Yes, I do.

2 Q Do you know the amount of coverage that
3 you have on your house and property?

4 A I'm sorry, sir, I don't.

5 Q Okay. Have you ever made a claim on your
6 homeowner's insurance on 132 Island Lane?

7 A Yes, we have.

8 Q Okay. What occurred that caused you to
9 make a claim on your homeowner's?

10 A As you know from the photographs, we've
11 had some very old and large trees, and sometimes
12 the wind really gets up there on the lake. And
13 a couple of them fell down on our attached
14 garage and broke the top ridge of the roof. And
15 so there was quite a bit of rebuilding of the
16 garage roof and then reroofing the house.

17 Q When did that occur?

18 A I'm not sure. I'm going to say in the
19 15-year-age range. I'm not sure.

20 And then a storm came through on the
21 4th of July, I think, two years ago and tore out
22 a bunch of the pine trees and took 16 down
23 between my daughter and our house and laid them
24 on her house.

25 And I believe that our homeowner's

1 paid to repair her house, and I had to pay to
2 clean up my trees.

3 So, yes, we have had some claims.

4 Q Did you have to pay -- or did your
5 homeowner's have to pay because they were your
6 trees falling on her house?

7 A Yes.

8 Q Have you ever made a claim on your
9 homeowner's policy related to the ash slide?

10 A No.

11 Q Okay. Ms. Francis, we're going to march
12 through some tax appraisals.

13 A Oh, dear.

14 Q My apologies in advance. We'll make this
15 as quick as we can.

16 (Marked Exhibit 20.)

17 BY MR. SHERK:

18 Q Ms. Francis, you've been handed Deposition
19 Exhibit No. 20. I'll represent to you that the
20 first page is a tax appraisal document that we
21 received from your counsel, Bates No. 25, for
22 the year 2009.

23 And the second page is a real estate
24 assessment data form from the State of Tennessee
25 regarding a tax appraisal for the tax year of

1 2010. I put these together just to keep things
2 in order.

3 Let's start on page 1.

4 Okay?

5 Do you remember receiving this 2009
6 tax appraisal?

7 A I don't recall vividly, but I'm sure I
8 received it. I keep copies of all of them.

9 Q Do you see in the very middle of the page
10 a box called "Property Value Information"?

11 A Yes, I do.

12 Q And it lists a land value of \$202,500.

13 Do you see that?

14 A Yes.

15 Q Right underneath that, improvement value
16 127,100.

17 Do you see that?

18 A Yes.

19 Q That would be presumably your house and
20 structures?

21 A Yes.

22 Q For a total property value of \$329,600;
23 correct?

24 A Yes.

25 Q Did you challenge or question this

1 valuation of your property?

2 A I went to question the last one that we
3 received. I don't know whether it was this one,
4 the five-year increase, where it went up to this
5 474. But I don't remember anything in relation
6 to this one.

7 Q Let's turn then to page 2 of Exhibit 20.
8 This is a real estate appraisal for the tax year
9 of 2010. Do you see in the middle of the page,
10 "Value Information"?

11 A Yes, sir.

12 Q And it says, "Reappraisal year: 2010";
13 correct?

14 A Yes.

15 MR. DAVIS: I'm going to object to
16 this. This is a document that you got off a
17 computer website somewhere, and she's not
18 familiar with this document.

19 THE WITNESS: I've never seen one of
20 these before.

21 BY MR. SHERK:

22 Q It lists the land market value as
23 \$300,000; correct?

24 MR. DAVIS: The document speaks for
25 itself. I object.

1 BY MR. SHERK:

2 Q You can answer.

3 A Yes. It says 300.

4 Q Okay. And the land improvement 174,300;
5 correct?

6 MR. DAVIS: Same objection.

7 THE WITNESS: That's what it says.

8 BY MR. SHERK:

9 Q And the total market appraisal is
10 \$474,300; correct?

11 MR. DAVIS: Same objection.

12 THE WITNESS: That's what it says.

13 BY MR. SHERK:

14 Q All right. And just a minute ago you
15 mentioned the \$474,000 figure?

16 A Uh-huh.

17 Q Do you remember receiving something in the
18 mail that contained that?

19 A From the tax assessor, yes.

20 Q All right. We didn't get that from your
21 counsel. When you got that assessment in the
22 mail, what steps did you take about that?

23 A My son Michael happened to be in town the
24 day that arrived, and he was ready to go back to
25 Clifton, so we decided to go up to the tax

1 assessor's office and talk with them. So we
2 took the card and sat down and talked with the
3 clerk, and she pulled up on the laptop adjacent
4 properties, similar situations, and so forth,
5 and the conversation ended in her telling us
6 that she thought that we had been treated very
7 fairly and, you know, in other words that -- you
8 know, that that was it. So we thanked her, and
9 we went home. He went back to Clifton, and I
10 came to my home.

11 Q Do you envision any further action about
12 the 2010 tax appraisal?

13 A No, I don't. I don't find that people are
14 really getting very much relief because this is
15 a buzz in the community, everyone is talking.
16 And some people that I know who have protested
17 have actually had their taxes increased. And so
18 I didn't think it would be a very productive
19 thing to try to buck the system.

20 And I mentioned my dad before was
21 involved in real estate. And he sat on this
22 board, the equalization board, for many, many
23 years. So I'm familiar with the process. So I
24 really didn't think it would do us too much
25 good.

1 (Marked Exhibit 21.)

2 BY MR. SHERK:

3 Q Thank you.

4 Ms. Francis, you've been handed
5 Deposition Exhibit No. 21. And I'll represent
6 to you that these are real estate appraisals for
7 tax purposes for lot 12 of your property at
8 Happy Ending Lane for the calendar years 2009
9 and 2010.

10 Do you see the top of the first page
11 of Exhibit 21, where it says "Tax Year 2009,"
12 Ms. Francis?

13 A Yes, I do.

14 MR. DAVIS: Let me object to the
15 question. You have not authenticated this with
16 the witness, but you may ask -- if you want to
17 ask her to read a document.

18 BY MR. SHERK:

19 Q Ms. Francis, do you see on the right-hand
20 side of Exhibit 21 where it says "Appraised
21 Values," that box?

22 A Yes.

23 Q Okay. It lists improvements as being
24 zero; correct?

25 A Yes.

1 Q It's because there's nothing on the lot;
2 right?

3 A Right.

4 Q And the land is appraised at \$50,000;
5 correct?

6 A Yes.

7 Q Okay. Let's turn to page 2 of Exhibit 21.
8 You'll see at the top of the document tax year
9 2010; correct?

10 MR. DAVIS: Objection -- same
11 objection.

12 THE WITNESS: Yes, sir.

13 BY MR. SHERK:

14 Q And again, this is for lot 12?

15 A Lot 12.

16 Q Correct. Improvements again are zero;
17 right?

18 A Yes.

19 Q And the land is now appraised for \$65,000?

20 A Yes.

21 Q Did you know of these valuations for your
22 property on lot 12?

23 A Yes, I'm sure I did.

24 Q Okay. Did you challenge your -- or appeal
25 this appraisal?

1 A We discussed them with the clerk the same
2 day. We had all the cards in our hands. They
3 came in the mailbox the same day.

4 Q So you discussed the appraisal -- 2010
5 appraisal for lot 10 as well?

6 A For the three lots, yes.

7 Q And we have different appraisal cards for
8 each lot. I wish there were a quicker way to go
9 through this, but I'll do it as quickly as I
10 can, Ms. Francis.

11 And once again, you're not sure which
12 one of the three lots is 12, 13, or 14?

13 A I can't recall right now.

14 Q That's fine.

15 MR. DAVIS: Let me just state for the
16 record -- I don't know if this will save any
17 time or not -- she's not seen these cards, so
18 you can ask, if you want, about her reading of
19 the cards, but these are not documents that are
20 her documents, so I mean, you'll have to
21 authenticate them some other way.

22 THE WITNESS: I'm not familiar with
23 this form of printout.

24 BY MR. SHERK:

25 Q Right. But you did receive cards from the

1 tax department?

2 A Yes, sir, I did.

3 Q And the values were the same that we've
4 been talking about?

5 A As best I can recall.

6 Q Okay.

7 MR. DAVIS: Just so I don't unduly
8 disrupt this, just note an objection to
9 questions about the numbers on these
10 documents -- okay? -- on a continuing objection.

11 (Marked Exhibit 22.)

12 BY MR. SHERK:

13 Q Ms. Francis, you've been handed Deposition
14 Exhibit No. 22.

15 A Yes, sir.

16 Q This is going to look painfully familiar.

17 At the top of the document, do you
18 see it says "Tax Year 2009"?

19 A Yes.

20 Q Correct?

21 And it's for lot 13?

22 A Yes.

23 Q And it would be on Happy Ending Lane, one
24 of your properties; correct?

25 A Yes, sir.

1 Q The appraised value for 2009 for the land
2 is listed at \$40,000; correct?

3 A Yes, sir.

4 Q Let's go to page 2 of Exhibit 22. This is
5 for the tax year 2010?

6 A Yes, sir.

7 Q Also for lot 13; correct?

8 A Yes.

9 Q And the land appraisal there is \$45,000;
10 correct?

11 A Yes.

12 Q Okay. Again, this was part of the
13 discussion that you and your son had with the
14 tax appraisal authority?

15 A Yes, sir.

16 MR. DAVIS: Objection to the
17 question. These documents were not part of that
18 discussion.

19 (Marked Exhibit 23.)

20 BY MR. SHERK:

21 Q Ms. Francis, you've been handed
22 document -- Exhibit, rather, 23. I'll represent
23 to you that this is a tax appraisal for lot 14,
24 the Happy Ending property.

25 Do you see that it says, on the first

1 page, "Tax Year 2009"?

2 A Yes, sir.

3 Q And the appraisal for this lot is \$35,000.

4 Do you see that?

5 A Yes, sir, I do.

6 Q Okay. Turning to page 2, you'll see at
7 the top of the exhibit it says "Tax Year 2010";
8 correct?

9 A Yes.

10 Q And the appraisal for lot 14 is \$40,000
11 here; correct?

12 A Yes, sir.

13 Q Again, this would have been a part of the
14 conversation, the valuation of this lot, that
15 you discussed with your son and the appraiser?

16 MR. DAVIS: Objection.

17 BY MR. SHERK:

18 Q Tax appraiser people?

19 MR. DAVIS: Objection.

20 THE WITNESS: We took the cards in
21 that I received in the mail and discussed them
22 the same day, but not these sheets here that
23 you've shown me.

24 BY MR. SHERK:

25 Q Did you discuss with the appraiser why the

1 lots were valued differently?

2 A No.

3 Q In your mind, of the three lots, does one
4 appear more valuable to you?

5 A I think they're valuable as a whole.

6 Q Would they all three have access to a
7 dock?

8 A That I'm not sure of.

9 Q Before the spill, did you consider selling
10 your property at 132 Island Lane?

11 A No.

12 Q Okay. Presently, are you considering
13 putting your property at 132 Island Lane for
14 sale?

15 A No, sir.

16 Q Okay. And I apologize if I've asked you
17 this before. Do you have any intention of
18 selling your three lots at Happy Ending Lane?

19 A I haven't thought about it at this time.

20 Q Okay. No current plans to do so?

21 A No, sir.

22 Q We talked a little bit about ways that
23 you've kept up with the news regarding the ash
24 slide at the Kingston facility; correct?

25 A Yes.

1 Q Television, you talked about?

2 A Yes.

3 Q Newspaper?

4 A Yes, sir.

5 Q Any other sources of information about the
6 ash slide or the cleanup?

7 A Well, in my retiree letters from TVA, they
8 have little excerpts quite often about their
9 progress and what they're doing. I read that.

10 Q Have you read or heard about health
11 studies that have been conducted since the ash
12 slide?

13 A I saw recently on the TV about one from
14 ORAU in Oak Ridge that had just been completed.

15 Q Okay. What did you learn about that
16 study?

17 A I think it's a wonderful thing that they
18 did it, but I don't think it's conclusive
19 because it hasn't been over a long enough time
20 to see what the repercussions will be. That's
21 just my opinion.

22 Q What do you understand the conclusion of
23 the ORAU study to be?

24 A I believe they depicted or told on the
25 news that there weren't any immediate health ill

1 effects to these people that they had studied.

2 Q Did you take that as some good news?

3 A I think it's wonderful that they're doing
4 the study, but I think it's premature to say
5 that those people aren't harmed at all.

6 Q Do you know anyone that was involved in
7 the ORAU screening study?

8 A Not really. I recognize the man who spoke
9 on TV because I've seen that at McDonald's, but
10 I don't know his name. They said it on the TV,
11 but I didn't retain it, so I don't know anyone.

12 MR. DAVIS: You have to wonder about
13 a health department person that goes into
14 McDonald's.

15 BY MR. SHERK:

16 Q Did you read or hear about a public health
17 assessment that was done by the Tennessee
18 Department of Health following the ash slide at
19 the Kingston facility?

20 A Would you mind repeating that again,
21 please?

22 Q Sure. Did you hear about a public health
23 assessment that was conducted by the Tennessee
24 Department of Health after the ash slide?

25 A I don't believe so.

1 Q You mentioned earlier this morning that
2 you and your son had driven up to the Kingston
3 facility about two weeks or so after the ash
4 slide; correct?

5 A Yes.

6 Q Have there been other instances where you
7 have gone up to the facility to take a look at
8 the cleanup operations?

9 A In fact, most recently on my birthday he
10 was in, and we went out in the boat for about an
11 hour and a half and he wanted to go up the
12 Emory. So he went up to the start of the
13 no-wake zone, and we proceeded up a short way to
14 see what they were doing and how much progress
15 they had made. But we went by water that day.

16 Q Were those the only two visits you've made
17 to the area?

18 A Yes.

19 Q Did the area look different to you when
20 you went most recently as compared to when you
21 went with your son two weeks after the spill?

22 A I was viewing it from a different vantage
23 point, but they had done a tremendous amount of
24 work.

25 Q Did you think it looked better?

1 A Yes. But it was still difficult to grasp
2 what had happened being that close to it and
3 seeing it.

4 Q Other than the inquiries you made about
5 having your well water tested, have you made
6 other inquiries or complaints or requests to TVA
7 since the spill?

8 A I don't recall any.

9 Q Okay. Have you attended public meetings
10 regarding the spill and the cleanup operations?

11 A No.

12 Q Are you aware of a group that was formed
13 called the Citizens Advisory Group?

14 A No.

15 Q Do you know anyone who's a member of the
16 Citizens Advisory Group?

17 A I might know them but not be aware that
18 they're in such group.

19 Q Okay. Have you ever made complaints to
20 TDEC regarding the spill or the cleanup
21 operations?

22 A No. I just talked with TDEC about my
23 well.

24 Q Okay. Have you ever made any complaints
25 to the Tennessee Department of Health about the

1 spill or the cleanup efforts?

2 A No, sir.

3 Q Have you ever made any complaints or
4 comments to the EPA regarding the spill or the
5 cleanup efforts?

6 A No, I don't know anyone in the EPA.

7 Q Okay. Have you spoken with or
8 communicated with any local government officials
9 regarding the spill or the cleanup efforts?

10 A Not to my knowledge.

11 Q Thinking about all the places you've lived
12 during the course of your life, Ms. Francis,
13 have you ever lived by a manufacturing plant of
14 any kind?

15 A Not to my knowledge.

16 Q Chemical plant?

17 A No.

18 Q Tire or rubber manufacturing plant?

19 A No.

20 Q Shipyard?

21 A No.

22 Q Landfill?

23 A No.

24 Q Waste treatment facility?

25 A No.

1 Q I believe that you said when you were
2 growing up on your father's farm, it was a
3 fairly rural area?

4 A You mean in West Virginia?

5 Q No, here.

6 A Yes. Yes, it was. Yes.

7 Q And there was some limited farming done?

8 A Yes.

9 Q Do you believe you were exposed to
10 pesticides or herbicides or fertilizers during
11 that period of your life?

12 MR. DAVIS: Object to the compound
13 question.

14 THE WITNESS: I helped plant the
15 crops, and that meant dusting fertilizer in a
16 row, you know, and putting the seed and covering
17 it with a hoe, but I wouldn't call that
18 exposure.

19 BY MR. SHERK:

20 Q What sort of crops were you planting?

21 A Just our normal vegetable garden.

22 Q Do you use e-mail and the Internet?

23 A I have in the past, yes.

24 Q Are you a frequent Internet user?

25 A No.

1 Q A frequent e-mail user?

2 A No.

3 Q Do you use e-mail to communicate with
4 others about this lawsuit?

5 A No.

6 Q Are there any particular websites or blogs
7 that you visit regarding the spill, TVA
8 facility, or the cleanup?

9 A No, sir.

10 Q Were you advised by your counsel that you
11 should be preserving documents and information
12 relating to this lawsuit?

13 MR. DAVIS: I don't believe that that
14 question can be answered as attorney-client
15 privilege.

16 BY MR. SHERK:

17 Q Do you understand that you should be
18 preserving information and documents regarding
19 this lawsuit?

20 A Yes, if I had any in my possession, yes.

21 Q And did you turn over all such materials
22 to your counsel?

23 A Yes, sir, I did.

24 Q Are there any e-mails that relate to this
25 lawsuit that have not been turned over to your

1 counsel that you recall now?

2 A No.

3 Q Are there any documents that relate to
4 this lawsuit that have not been turned over to
5 your counsel that you now recall?

6 A No, sir.

7 MR. SHERK: Off the record.

8 (Off the record.)

9 (Marked Exhibit 24.)

10 BY MR. SHERK:

11 Q We're back on the record, Ms. Francis, and
12 you've been handed Deposition Exhibit No. 24.

13 Do you see that?

14 A Yes, sir.

15 Q This is out of sequence. I apologize for
16 that. I kind of forgot that I had these
17 photographs, but this is a photograph taken
18 August 11, 2010.

19 Does this show a portion of your
20 Happy Ending Lane property?

21 A Yes.

22 Q Looking at Exhibit 24, it shows a grassy
23 field with a truck in it; correct?

24 A Yes, sir.

25 Q Is that your truck?

1 A It belongs to our son.

2 Q Does your property then extend back into
3 the woods?

4 A Yes.

5 Q And behind -- behind those woods, you
6 would find the river?

7 A The slough, yes.

8 Q Slough. And the slough then would lead to
9 the river; correct?

10 A Yes.

11 Q Okay.

12 A Do you need a truck?

13 Q It's a generous offer.

14 (Marked Exhibit 25.)

15 BY MR. SHERK:

16 Q Ms. Francis, you've been handed Deposition
17 Exhibit No. 25. I'll represent to you this is a
18 photograph that was taken on August 3, 2010.

19 Do you recognize this image?

20 A Not clearly for sure.

21 Q Okay. This is a photograph that was taken
22 from the water in the cove, and I believe this
23 dock is one that would be your neighbor's dock
24 for the lots at Happy Ending Lane.

25 MR. DAVIS: I'm going to object.

1 If you don't recognize it --

2 THE WITNESS: I don't recognize it.

3 I really don't. I was trying to figure it out.

4 BY MR. SHERK:

5 Q Okay. Just for the record, Ms. Francis, I

6 think your properties are to the left of the

7 dock, and then --

8 A Yes.

9 Q Does that ring a bell with you?

10 MR. DAVIS: I object.

11 THE WITNESS: You don't know whose

12 dock that is?

13 BY MR. SHERK:

14 Q I don't.

15 A Okay. I couldn't say, sir. I'm sorry.

16 Q All right. Let me loop back to something

17 we discussed earlier this morning, and that was

18 the lawsuit that you had against the TVA after

19 you were laid off as a force reduction.

20 Do you remember that?

21 A Yes.

22 Q The deposition that you had earlier in

23 your life, that related to that lawsuit against

24 TVA?

25 A Yes.

1 Q I just wanted to make sure that that was
2 in the record.

3 Would your lawsuit have in any way
4 concerned a retaliation because of the injury
5 that you sustained on the job while working at
6 TVA?

7 A In no way, sir.

8 Q No?

9 A No, sir. I'm very grateful to TVA because
10 it enabled me to have a livelihood that I could
11 support -- we could send our children to
12 college, and that's something we dreamed of.
13 No, I don't have any ill will towards TVA at
14 all.

15 Q That lawsuit then was more, as you
16 described earlier, because certain people were
17 rehired, but you were not among them?

18 A Yes. Yes. And I really enjoyed my job at
19 TVA. I really did well, as shown by the way I
20 excelled and was promoted. And I felt I would
21 be an asset to the nuclear plant. And I really
22 wanted to go back to work. I wasn't ready to
23 retire.

24 Q Thank you so much.

25 A Thank you.

1 Q I'm going to turn this chair over to one
2 of my colleagues for some questions.

3 A Okay.

4 EXAMINATION

5 BY MS. MORETZ:

6 Q Ms. Francis, my name is Denise Moretz, and
7 I have a cold, so I will try to keep my voice
8 up. If you can't hear me, just let me know and
9 I'll back up and repeat.

10 I'm going to try not to repeat any of
11 the questions that were asked, but I do admit
12 that I stepped out briefly because I had a
13 coughing fit, so if I repeat, somebody will let
14 me know that I've done that.

15 When you worked at the Kingston steam
16 plant, I think from '53 to '55, was the
17 construction of the steam plant going on at that
18 time?

19 A Yes.

20 Q Okay. Did you work in an office or were
21 you out in the field where the construction was
22 happening?

23 A I was in a construction office.

24 Q Okay. Did that have you out among the
25 workers at any time as part of your

1 responsibility?

2 A The only time I was ever out in the field
3 was sometimes on the weekend I helped in the
4 time office, and that was located more centrally
5 at the building site. It was away from the
6 office complex.

7 Q Okay. So you would not have been working
8 among the various trades that were involved in
9 the building, actual physical --

10 A No.

11 Q -- building of the facility?

12 A No. No.

13 Q Okay. Now, when you worked at TVA at
14 Watts Bar, '76 to '88, was that also during the
15 construction time period of that facility?

16 A Yes, it was.

17 Q Okay. And when you -- during your work at
18 Watts Bar, were you out on the construction
19 site?

20 A Yes.

21 Q Okay. And as I understand it, you did
22 some work involving the electrical systems?

23 A Yes.

24 Q Would that work have involved you working
25 around the various other trades that were

1 involved in doing their work in the construction
2 of the Watts Bar facility?

3 A Yes. You would come in contact -- when
4 you worked on the valves, you had to have a
5 pipefitter as well as an electrician with you.

6 Q Okay. Did -- do you know if you ever
7 worked around insulators at the Watts Bar
8 facility?

9 A I don't think so.

10 Q Okay. Was the -- the insulation of piping
11 or any of that kind of work being done in your
12 presence?

13 A No, not to my knowledge.

14 Q Okay. During the time that you were at
15 Watts Bar, did that facility ever come on line?

16 A No, not while I was there.

17 Q Okay. Okay.

18 Now, as I understand it, you've --
19 since 19 -- the 1950s anyway, you have lived in
20 the Kingston area and the Kingston steam plant
21 has been operational beginning -- I think it's
22 '56; is that right?

23 A Somewhere in there.

24 Q Somewhere in there. Have -- have you or
25 your family ever had any complaints with regard

1 to the fly ash coming from the stacks from the
2 Kingston steam plant during the time that you've
3 lived in this area?

4 A I haven't.

5 Q Do you recall ever observing fly ash on
6 your property, totally unrelated to the spill
7 and before the spill, as a result of -- of
8 something coming out of the stacks at the
9 Kingston steam plant? Have you seen that on
10 your car, on your home, on your dock, your boat?

11 A No, not prior to the spill.

12 Q Okay. Your husband's name was Robert or
13 Bob?

14 A Yes.

15 Q Is that right?

16 Did you say what he did for a living?
17 Did you tell us that?

18 A No, I did not.

19 Q What did he do for a living?

20 A But he worked for Union Carbide, which was
21 Martin Marietta and many, many names for 39
22 years and 8 months.

23 Q Okay. And what did he do at Union
24 Carbide?

25 A He was an instrument mechanic, and then

1 they started calling them instrument

2 technicians. He was very proud of his trade.

3 Q I understand there's various facilities
4 out at Oak Ridge, there's K-25, Y-12, and X-10.

5 A Yes.

6 Q Do you know where he actually was located
7 in Oak Ridge?

8 A Yes. He worked at X-10.

9 Q Okay. Was that for the entire time that
10 he was employed there?

11 A I think after college, prior to going in
12 the service, he worked a year, and he might have
13 worked at Y-12 in the lab there.

14 Q Okay.

15 A I'm not sure of the history of that.

16 Q And Mr. Francis passed in 2006?

17 A Yes, he did.

18 Q What was the cause of his death, ma'am?

19 A He had Shy Drager Syndrome.

20 Q I don't know what that is. Is that a type
21 of cancer, or is that something different?

22 A That's a disease of the autonomic nervous
23 system, and all of your systems start failing
24 one by one, and it was a very long process.
25 After he was diagnosed he lived for seven years.

1 There isn't a cure.

2 Q To your knowledge, did any doctor ever
3 consider that maybe his work out at Oak Ridge,
4 any of the exposures, had any causal
5 relationship related to the disease he died
6 from?

7 A No one mentioned that to me, no.

8 Q I think you mentioned he died in 2006?

9 A Yes.

10 Q For the period of time after your husband
11 died, and then before the spill -- so we're
12 talking 2006 and at the end of 2008 -- did you
13 entertain at your home?

14 A Yes, some.

15 Q Okay. Did you have any -- were there any
16 baptisms, for example, did the church come do
17 their baptisms?

18 A No. We -- we don't get in the lake now.

19 Q Okay.

20 A No.

21 Q Did you get in the lake before the
22 spill --

23 A Yes.

24 Q -- after your husband's death between the
25 2006 --

1 A Yes. Yes.

2 Q Okay. Were there --

3 A It was wonderful exercise to go down and
4 hang onto the dock and, you know --

5 Q How often would you do that after your
6 husband's death, talking the 2006/2008 time
7 period?

8 A I really wouldn't be able to say. You
9 know, it depends on the day and what you were
10 doing, the activity. Maybe if you had been
11 mowing and it was hot, you may just go in the
12 water.

13 Q Okay. Have you seen a doctor since the
14 ash spill for any reason?

15 A Yes.

16 Q Have -- in visiting the doctor, did you
17 express any concerns or ask the doctor any
18 questions about how the ash spill could have --
19 could be affecting your health and asked for any
20 tests or his opinions with regard to that?

21 A No, I don't believe I've ever discussed it
22 with a doctor.

23 Q Okay. Ma'am, I represent a company by the
24 name of WorleyParsons. Is that a company that
25 you're familiar with?

1 A I understand that they're listed on the
2 Complaint.

3 Q Okay. Prior to reading that Complaint and
4 seeing their name listed -- and I think you said
5 that was -- you did that for the first time
6 yesterday?

7 A Yes, ma'am.

8 Q Did you know the name WorleyParsons or
9 know anything about that company?

10 A No, ma'am. I can honestly say I did not.

11 Q Okay. That's all the questions I have.
12 Thank you, ma'am.

13 A Thank you.

14 E X A M I N A T I O N

15 BY MS. LOWE:

16 Q Good afternoon, Ms. Francis. My name is
17 Ashley Lowe, and I just have a few questions for
18 you.

19 I represent a company named GeoSyntec
20 Consultants. Do you know who GeoSyntec
21 Consultants is?

22 A I recognize that name from the Complaint
23 yesterday.

24 Q Okay. Prior to reviewing the Complaint
25 yesterday, did you know the name GeoSyntec

1 Consultants or what that company did?

2 A No, I did not, prior to yesterday.

3 MS. LOWE: Okay. Before I forget
4 about this. I know we discussed Ms. Francis'
5 handwritten notes off the record. And I just
6 want to put on the record that you guys had
7 indicated you're going to provide us with
8 another copy of those because there's certain
9 information that's been cut off in what we were
10 provided.

11 MS. FRY: Yes, we'll provide those.

12 BY MS. LOWE:

13 Q Ms. Francis, just a couple of questions
14 about these notes.

15 Why did you decide to keep these
16 handwritten notes?

17 A Well, it just helped me in expressing the
18 way I felt about what was going on. And I
19 always have been a great note writer. I keep a
20 Daytimer with a record of what I do and that
21 sort of thing. It's just part of my
22 personality.

23 Q Do you otherwise keep a journal of what
24 you do or things that happen of significance to
25 you?

1 A Periodically, I have, yes.

2 Q Okay. Were these notes a part of another
3 journal? Is there other information contained
4 in this journal where these notes were kept?

5 A No. No. Those were on a separate piece
6 of paper.

7 Q Were these kept in a notebook, or are
8 these individual sheets of loose paper?

9 A Just loose paper.

10 Q Did you write all of these notes at the
11 same time?

12 A I think they're -- they were written at
13 different times, but when I copied them to send
14 them in to the attorneys, as you could see, they
15 were recopied, probably. That's why the
16 handwriting is probably similar.

17 Q Okay. So you think you recopied and
18 provided to your attorneys notes that you had
19 provided over time?

20 A If I could look at them, I could tell you.

21 Q Sure. And these, for the record are Bates
22 labeled Francis Jewel 000001 -- that's five
23 zeroes -- through 000007.

24 A I believe, to the best of my knowledge, I
25 was probably recopying notes that I had written

1 so it would be more legible because sometimes I
2 write quickly, and you really wouldn't be able
3 to read what I said.

4 Q Did you retain the original notes that you
5 had taken?

6 A No. I put things like that in a waste can
7 in my office, and I burn that.

8 Q Okay.

9 A Instead of shredding, I burn them.

10 Q When would you have thrown away your
11 original notes?

12 A I'm sure when I sent that in.

13 Q And you think you would have already
14 burned what was in that wastebasket since then?

15 A Yeah, many times over.

16 Q The dates that are reflected on these
17 handwritten notes, are those dates in which the
18 events occurred that are reflected in the notes
19 or the dates upon which you wrote down the
20 information?

21 A I guess it would be pertaining to the
22 text.

23 Q So you think the dates reflect the date on
24 which the events occurred in the text, not
25 necessarily the dates you wrote the information

1 down? Is that -- am I understanding you
2 correctly?

3 A I would say that I probably gave you the
4 date when something occurred, like I do remember
5 the well people saying they came on New Year's
6 Eve, which was odd to me. I don't know whether
7 I noted it in there or not. But, you know,
8 that's just a for instance. So it would be hard
9 to say without reading all of them.

10 Q There's one particular reference in these
11 notes that says "baseline nail clippings." What
12 does that mean?

13 A Someone told me to take nail clippings,
14 but I think I failed to ever do that. For what
15 reason, I don't know.

16 Q Of your fingernails?

17 A Uh-huh.

18 Q And you don't think you ever did that?

19 A No.

20 Q Do you know who told you you should do
21 that?

22 A No. I'm sure it was just someone talking.

23 Q Do your dogs swim in the lake?

24 A I try to keep them out of the lake. I
25 don't like them to get away from me.

1 Q Why do you try to keep them out of the
2 lake?

3 A Because it might be harmful to them, and
4 they're my little people.

5 Q Did they swim in the lake prior to the
6 spill?

7 A My oldest one did, the 10-year-old, but
8 the two little ones, no. I can't let them
9 loose. They're -- they might leave me.

10 Q So you've always kept them out of the
11 lake?

12 A Yes. Yes.

13 Q You discussed earlier, I believe, some
14 observations of what you thought was fly ash on
15 your property; is that correct?

16 A Yes. Yes.

17 Q Did anyone other than you see the fly ash
18 on your property?

19 A Yes. My son Robert has seen it. And he's
20 had considerable ash over on his property.

21 Q Have you observed what you thought to be
22 fly ash on your son Robert's property?

23 A No. I -- it's difficult for me to walk
24 down to his shoreline because his bank is rather
25 steep. And no, I didn't go down to see it.

1 Q So this is something he's told you about?

2 A Yes.

3 Q What about other people who may have seen
4 what you believe to be fly ash on your property?
5 Other than your son Robert, is there anyone
6 else?

7 A I'm sure my daughter and my other son,
8 Michael.

9 Q Anyone other than your daughter and your
10 other son, Michael, that you're aware of?

11 A Just the TVA workers and Mr. Brown.

12 Q Okay. I believe you indicated you didn't
13 take any photographs or video of the fly ash on
14 your property; is that correct?

15 A No, I didn't.

16 Q Are you aware of anyone else who took any
17 photographs or videos of the fly ash on your
18 property?

19 A No, I'm not. I'm not aware.

20 Q I believe you discussed earlier that you
21 like to garden, and I think you described flower
22 beds; is that correct?

23 A Yes.

24 Q Do you have a vegetable garden on your
25 property?

1 A I have a couple tomato plants and two
2 pepper plants. But they're in my flower beds.
3 They're very pretty.

4 Q Have you ever done more vegetable
5 gardening on your property than you're doing
6 now?

7 A Yes. We've had very large gardens when
8 the children were growing up. It was a family
9 affair, you know, the garden.

10 Q When did you stop having large gardens?

11 A Well, after the children went to college
12 and left home, it wasn't necessary to prepare,
13 preserve, freeze so much food, and it was a lot
14 of work for just the two of us. So we just
15 gradually dwindled down.

16 Q Mr. Sherk asked you a little bit about
17 some medical screening programs that have gone
18 on. Are you aware of anyone who has been
19 part -- or do you know anyone who has been part
20 of any of these medical screening programs?

21 A No, I don't know anyone.

22 Q Do you know anyone who has been invited to
23 be a part of these medical screening programs
24 and has chosen not to?

25 A No.

1 Q I know you mentioned you were involved in
2 your church; is that correct?

3 A Yes.

4 Q Are you involved in any other
5 organizations or clubs in the area?

6 A Yes. I go to the Red Hat Society just
7 when we want to dress up and have lunch.

8 Q Where do you meet, the Red Hat Society?

9 A Most recently we've met at the Gibson
10 Girls there in Kingston.

11 Q Is that a restaurant?

12 A Yes.

13 Q Does that organization ever meet at your
14 house?

15 A No.

16 Q Any other organizations or clubs that
17 you're involved in?

18 A No. Now, years back, we had organizations
19 come to the house, you know, and like I told the
20 gentleman, you know, we had reunions and that
21 sort of thing.

22 Q Following the spill, have you had any
23 organizations have meetings or come to your
24 house?

25 A No. That's what I wanted to clarify.

1 Q Okay. Do you know anyone who currently
2 works at the Kingston plant?

3 A Yes, I do.

4 Q Who do you know that currently works
5 there?

6 A My ex son-in-law, Steven Scott Long.

7 Q What does he do at Kingston?

8 A Something in supervision, I'm not sure.

9 Q Do you know how long he's worked there?

10 A He's been there a little over a year now.

11 Q So he didn't go to work there until --

12 A After the spill.

13 Q -- following the spill?

14 A Yes. Pretty soon after the spill.

15 Q Have you had any discussions with him
16 about the spill or the cleanup efforts?

17 A No.

18 Q Do you know anyone else that currently
19 works at the Kingston facility?

20 A I don't think so.

21 Q Are you -- do you know anyone who worked
22 at the Kingston facility -- facility around the
23 time of the spill?

24 A No.

25 Q Ms. Francis, I think that's all the

1 questions I have for you. I don't know if
2 anyone else has any follow-up.

3 MS. LOWE: Do we want to mark these
4 for ID purposes, just so we know what we're
5 talking about? I mean, I know you guys are --

6 MR. DAVIS: Let's do so to keep the
7 record clear.

8 MS. LOWE: We'll mark the handwritten
9 notes as Exhibit 26.

10 (Marked Exhibit 26.)

11 MR. SHERK: I just have one thing to
12 clarify before we finish up.

13 F U R T H E R

14 E X A M I N A T I O N

15 BY MR. SHERK:

16 Q Ms. Francis, I just have a couple
17 questions.

18 I want to refer your attention back
19 to Exhibit 12, the big blowup of the aerial
20 photograph; right?

21 Do you see that?

22 A Yes, sir.

23 Q Okay. Good. You've drawn a black line
24 that shows where some gentlemen came out and did
25 some cleanup efforts; correct?

1 A Yes.

2 Q Now, this location where the fly ash was,
3 that is not your property?

4 MR. DAVIS: Object to the question.

5 BY MR. SHERK:

6 Q You can answer.

7 A That's below the 750, so it belongs to
8 TVA.

9 Q Okay. Did you ever see any fly ash up in
10 your lot itself?

11 A I'm sure we tracked it up there, and I saw
12 tracks on the dock, you know, of fly ash. But
13 that's still not up above the 750, you know. It
14 would be difficult to discern in the grass, but
15 I'm sure there's some cross-contamination. I
16 believe there would be.

17 Q All right. Have you ever had that tested,
18 the soil of your property?

19 A No.

20 Q I don't think I have any more questions.
21 Thank you very much. I appreciate your patience
22 with us this morning.

23 MR. DAVIS: I may want to ask you one
24 quick question, just to clear something up,
25 because there was kind of a double or triple

1 negative in a question that Mr. Sherk asked.

2 So I'm just going to ask it in a very
3 direct way.

4 E X A M I N A T I O N

5 BY MR. DAVIS:

6 Q Are you asking for medical monitoring for
7 yourself?

8 A No sir, I'm not.

9 Q Thank you. That's all I have.

10 (Deposition session concluded at 12:58 P.M.)

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1 REPORTER'S CERTIFICATE

2 I certify that the witness in the
3 foregoing deposition, JEWEL FRANCIS, was by me
4 duly sworn to testify in the within-entitled
5 cause; that the said deposition was taken at the
6 time and place therein named; that the testimony
7 of said witness was reported by me, a Shorthand
8 Reporter and Notary Public of the State of
9 Tennessee authorized to administer oaths and
10 affirmations, and said testimony, pages 1
11 through 168 was thereafter transcribed into
12 typewriting.

13 I further certify that I am not of
14 counsel or attorney for either or any of the
15 parties to said deposition, nor in any way
16 interested in the outcome of the cause named in
17 said deposition.

18 IN WITNESS WHEREOF, I have hereunto
19 set my hand the 15th day of September, 2010.



25 Katherine Gale, CSR, LCR #420
My commission expires: 2/27/2012

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E R R A T A

I, JEWEL FRANCIS, having read the foregoing deposition, Pages 1 through 168, taken September 3, 2010, do hereby certify said testimony is a true and accurate transcript, with the following changes, if any:

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JEWEL FRANCIS

Notary Public

My commission expires: _____

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In The Matter Of:
George Chesney, et al. v.
Tennessee Valley Authority, et al.

William Gaddis
September 8, 2010

Vowell & Jennings, Inc.
214 Second Avenue North
Suite 207
Nashville, Tennessee 37201
615-256-1935



Original File 090810A.TXT
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

GEORGE CHESNEY; VIRGIL)
MAINES; WILLIAM GADDIS;)
DEBRA BURNUM; PATRICIA)
CORDELL; JAMES G.)
WORLEY; JEWEL H.)
FRANCIS; DONALD W.)
SIMON; and BARBARA M.)
PHILLIPS,)

Plaintiffs,)

vs.)

CASE NO. 3:09-CV-09

TENNESSEE VALLEY)
AUTHORITY; GEOSYNTEC)
CONSULTANTS, INC.; and)
WORLEYPARSONS)
CORPORATION,)

Defendants.)

DEPOSITION OF:

WILLIAM GADDIS

Taken on Behalf of the Defendants

September 8, 2010

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1 The deposition of WILLIAM GADDIS,
2 taken on behalf of the Defendants, on the 8th
3 day of September, 2010, at 9:12 A.M., in the Law
4 Offices of Cooley, Cooley & McFarland, 1021
5 Waterford Place, Kingston, Tennessee, for all
6 purposes under the Tennessee Rules of Civil
7 Procedure.

8 The formalities as to notice,
9 caption, certificate, et cetera, are waived.
10 All objections, except as to the form of the
11 questions, are reserved to the hearing.

12 It is agreed that Katherine Gale
13 being a Notary Public and Court Reporter for the
14 State of Tennessee, may swear the witness and
15 that the reading and signing of the completed
16 deposition by the witness are reserved.

17
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22
23 WILLIAM GADDIS
24 was called as a witness, and after having been
25 first duly sworn, testified as follows:

1 EXAMINATION

2 BY MR. ANSTOETTER:

3 Q Good morning Mr. Gaddis. My name is Mark
4 Anstoetter, and I represent the Tennessee Valley
5 Authority in a lawsuit that I believe you're
6 involved in, and we're here today to take your
7 deposition with regard to that lawsuit.

8 Is that your understanding for being
9 here today?

10 A Yes, it is.

11 Q Could you state your name for the record?

12 A William Gaddis.

13 Q And sir, what is your address?

14 A 1216 Cove Lane here in Kingston.

15 Q And how old are you, sir?

16 A I am 62.

17 Q And what's your date of birth?

18 A 9/25/47.

19 Q Have you given your deposition before?

20 A No, sir.

21 Q Have you ever given sworn testimony of any
22 type?

23 A No, sir.

24 Q Okay. Let me just cover a few of the
25 ground rules.

1 This is my opportunity to ask you
2 questions involving this lawsuit, and the court
3 reporter's going to take down everything that we
4 talk about today. And it's important that we
5 try not to talk over each other, so I'll ask the
6 question and then you can provide your answer.

7 The other thing that's important is
8 the court reporter can't take down shakes of the
9 head, or "uh-huh's" or "huh-unh's" don't show up
10 very well on the record, so we need to give
11 audible, verbal responses.

12 Okay?

13 A Okay. I'll do my best.

14 Q Okay. And if throughout the day there's
15 any time I ask you a question that you don't
16 understand, please ask me to clarify it. We
17 want to make sure you understand the question
18 and have an opportunity to let me know if you
19 don't.

20 Okay?

21 A Okay.

22 Q And there may be -- from time to time,
23 your attorney may make an objection. If so and
24 unless she instructs you not to answer, you can
25 go ahead and answer the question.

1 Okay?

2 A Okay.

3 Q Sir, do you have any medical condition
4 that would affect your ability to give truthful
5 testimony here today?

6 A No, sir.

7 Q Okay. Are you currently taking any
8 medications?

9 A Yes.

10 Q Okay. Can you tell me what those are?

11 A I'm taking a statin for cholesterol.

12 Q Okay. Anything else?

13 A No.

14 Q Sir, what did you do to prepare for your
15 deposition today?

16 A I met yesterday briefly with my lawyers.
17 Talked to my wife a little bit to revisit some
18 of the occurrences that I had forgotten. That's
19 about it.

20 Q When you say you met with your lawyers,
21 who did you meet with?

22 A Beth Alexander and Kenny -- I forgot your
23 last name. Beth and Kenny.

24 Q How long did you meet?

25 A Oh, I would say two and a half hours.

1 Q And where did you meet?

2 A Here.

3 Q Okay. In the building that we're in today
4 for your deposition?

5 A Right here. We also spent some time at my
6 house because we couldn't get in the building
7 here when we were scheduled to. We just killed
8 some time over at my house and spent some time
9 over here.

10 Q Had you met either of the lawyers that you
11 visited with yesterday?

12 MS. ALEXANDER: Let Mr. Anstoetter
13 ask his question so -- she can't take down both
14 of you at the same time. Let him finish. Don't
15 get in a hurry.

16 THE WITNESS: Sorry.

17 BY MR. ANSTOETTER:

18 Q It's okay.

19 A Yes. I had met Beth before on a couple of
20 occasions. I had never met Kenny before.

21 Q When did you first meet Ms. Alexander?

22 A I'm not sure. It was in 2009 after the
23 spill, probably toward the middle of the year.
24 I'm not real you sure of what the date was.

25 Q How did you come to meet Ms. Alexander?

1 A I was referred to her after a brief
2 meeting with John McFarland. We were looking
3 for counsel, and there was an advertisement that
4 he was associated with the counsel for the
5 spill, met with him briefly to determine that he
6 actually was just a local representative and
7 that the people pursuing the suit were Lief, f,
8 Cabraser. Subsequent to that, Beth came here
9 and I met with her right here in this room.

10 Q Okay. And so you had an advertisement
11 that --

12 A I think it was --

13 Q Let me --

14 A Excuse me.

15 Q I know it's going to be hard to get used
16 to doing this because you're anticipating my
17 question a little bit, but let me go ahead and
18 get my question on the record, and I'll stop and
19 pause, and you can go ahead and get your answer
20 in. Okay?

21 Did you review an advertisement in
22 the paper, or how did you come upon an
23 advertisement?

24 A I believe it was in the newspaper.

25 Q And what did the advertisement say?

1 A I don't recall exactly. The indications
2 were that Cooley, Cooley & McFarland were
3 available for people who were interested in
4 pursuing litigation associated with the spill.
5 That's -- that was the gist of it.

6 Q So then you met with Mr. McFarland here at
7 Cooley, Cooley?

8 A Yes.

9 Q And did Mr. McFarland then refer you to
10 Ms. Alexander?

11 A Yes.

12 Q Okay. Did she contact you, or did you
13 contact her?

14 A I contacted her.

15 Q Okay. And do you recall what date that
16 was?

17 A As I said before, I don't remember the
18 date that we met her. She was scheduled to come
19 over to meet with potential litigants that I
20 assume had also talked with Mr. McFarland. We
21 were made aware of that date, and we were here.

22 Q Okay. What --

23 A I didn't actually contact her on the phone
24 or anything like that, but there was a scheduled
25 time for us to meet with representatives from

1 Lieff, Cabraser.

2 Q Who scheduled that meeting?

3 A I don't know.

4 Q How did you get your notice to attend
5 about that meeting?

6 A Mr. McFarland.

7 Q How many individuals were here at that
8 time?

9 A I don't recall exactly how many. I
10 believe there was approximately, including the
11 lawyers, eight.

12 Q Do you remember the names of the other
13 individuals?

14 A No.

15 Q Had you met them before?

16 A No.

17 Q And --

18 A I'm --

19 Q Go ahead.

20 A I'm sorry. There was one individual that
21 I came with that I do know.

22 Q Who was that?

23 A My neighbor.

24 Q And what's his name?

25 A His name is Royce Reed.

1 Q Where does Mr. Royce live?

2 A He's my neighbor next door.

3 Q Which direction?

4 A Would be on the south side of me.

5 Q Facing your house?

6 A Adjoining on the south side.

7 Q Right. So if you're facing your house,

8 he's on the south side as opposed to being in

9 the water?

10 A He's on the south side as you're facing my

11 house, you're correct.

12 Q And what was the result of that meeting?

13 A As far as we were concerned, the result of

14 that meeting was to try to determine whether we

15 should go ahead and pursue litigation. We

16 didn't make the decision at that time.

17 Subsequent to that, we did make the decision to

18 go ahead and sign on.

19 Q When you say we, who was included in that

20 we?

21 A Dr. Reed.

22 Q Did he actually sign on any litigation, to

23 your knowledge?

24 A Yes.

25 Q Is he represented by Lief, Cabraser to

1 your understanding?

2 MS. ALEXANDER: Object to the form.

3 THE WITNESS: Excuse me?

4 MS. ALEXANDER: Object to the form.

5 You can answer to the best of your
6 ability.

7 BY MR. ANSTOETTER:

8 Q You can answer.

9 A Yes.

10 Q He's not a named class representative in
11 this matter; correct?

12 A No.

13 Q Sir, you mentioned you talked to your wife
14 about getting ready for your deposition. What
15 did you talk about?

16 A Talked about the dates.

17 MR. FRIEDMAN: I believe there's a
18 spousal privilege here that you're going to get
19 into. Don't you agree? I'm going to instruct
20 him not to answer.

21 MR. ANSTOETTER: Okay.

22 Q Just so the record's clear, you're not
23 going to answer the question about what you
24 discussed with your spouse?

25 A Based on my lawyer's advice, yes.

1 Q Sir, did you review any documents in
2 preparation for your deposition?

3 A Yes.

4 Q Okay. Which documents did you review?

5 A I briefly reviewed the filing, the
6 Complaint.

7 Q And was that yesterday?

8 A Yes.

9 Q Had you seen the Complaint before
10 yesterday?

11 A Yes.

12 Q When was the first time you saw the
13 Complaint?

14 A I don't remember the exact date. It was
15 several months ago.

16 Q Okay. Did you have any input into
17 drafting the Complaint?

18 A No.

19 Q Okay. And sir, when did you officially
20 enter into an engagement with Lieff, Cabraser?

21 A I don't remember the exact date. It was
22 several months into 2009.

23 Q Other than reviewing the Complaint, did
24 you review any other documents?

25 A In preparation for this meeting?

1 Q Yes.

2 A No.

3 Q In preparation for this deposition.

4 A No.

5 Q Didn't review any discovery responses?

6 A No.

7 Q Prior to meeting with Ms. Alexander

8 yesterday, how many other occasions have you had

9 to meet with Ms. Alexander?

10 A I believe we've met twice.

11 Q Did you meet with anyone --

12 A Before yesterday.

13 Q Have you met with any other lawyer that's

14 associated with the class action?

15 A Only Mr. McFarland in our initial visit.

16 Q And prior to yesterday, when was the most

17 recent time that you met with Ms. Alexander?

18 A I don't recall. Months ago.

19 Q Where was that located? Where was that

20 meeting?

21 A Here.

22 Q At Mr. McFarland's office?

23 A Yes.

24 Q Was anybody else present during any of

25 your meetings with Ms. Alexander?

1 A The initial meeting, as I stated, there
2 were six or eight people here. I don't believe
3 that there was anyone present at the second
4 meeting.

5 Q At the first meeting with Ms. Alexander,
6 had you entered into an engagement with the
7 Lieff, Cabraser law firm?

8 A No.

9 Q What did you discuss at that meeting?

10 MS. ALEXANDER: I'm going to object
11 that you're getting into attorney-client
12 privilege.

13 MR. ANSTOETTER: He didn't have a
14 relationship with you at the time.

15 MS. ALEXANDER: He was there seeking
16 counsel.

17 MR. ANSTOETTER: So you're going to
18 instruct him not to answer?

19 MS. ALEXANDER: I am.

20 BY MR. ANSTOETTER:

21 Q Sir, did you review any deposition
22 transcripts associated with this lawsuit?

23 A No.

24 Q Have you talked to any other class
25 representatives about their testimony?

1 A No.

2 Q Have you talked to anyone else other than
3 your wife and counsel about your deposition?

4 A Yes.

5 Q Okay. Who was that?

6 A Dr. Reed.

7 Q Dr. Reed?

8 A Yes, just to let him know that I was going
9 to be giving it.

10 Q Okay. When did that conversation take
11 place?

12 A I think it was yesterday.

13 Q Okay. Was counsel present?

14 A She was.

15 Q Okay. Other than Mr. Reed, have you
16 talked to any of your other neighbors about your
17 deposition or about this litigation?

18 A No.

19 Q During your preparation session yesterday,
20 did you practice any questioning?

21 A Yes.

22 Q Okay. Have you talked to any medical
23 professional about this litigation?

24 A No.

25 Q Any psychiatrist or psychologist?

1 A No.

2 Q Are you a member of a church?

3 A Yes.

4 Q Okay. Have you talked to your pastor or
5 minister?

6 A No.

7 Q Sir, do you have a computer at home?

8 A Yes.

9 Q And do you use that computer for sending
10 and receiving e-mails?

11 A Yes.

12 Q And is that a computer that you have sole
13 use of, or does anyone else in your house use
14 that computer?

15 A Yes. My wife also.

16 Q Have you ever used your computer to send
17 or receive e-mails related in any way to the TVA
18 release of December 22, 2008?

19 A Is -- could you clarify that a little bit?
20 Are you talking about anything associated with
21 this litigation?

22 Q I'm talking about anything associated with
23 the incident that is pled in your Complaint that
24 relates to the dike failure at the Kingston
25 facility on December 22, 2008.

1 A No. A little unclear here. Are you
2 talking about writing e-mails to friends and,
3 gosh, we had an ash spill here the other day?
4 Is that what you're talking about?

5 Q I'm talking about whether you sent or
6 received any e-mails that involve in any way the
7 December 22, 2008, dike failure.

8 A I've e-mailed Lief, Cabraser involving
9 the litigation.

10 Q Have you --

11 A Relationship and information transfer, et
12 cetera.

13 Q Have you used your e-mail for
14 communicating with anyone other than Lief,
15 Cabraser?

16 A I don't think so.

17 Q Okay. Have you received any information
18 from anyone else on your computer pertaining to
19 the December 22 event?

20 A No.

21 Q Has your -- has your spouse received any
22 information on your computer with regard to the
23 December 22 dike failure?

24 A Received?

25 Q Yes.

1 A I believe that's no. I'm not positive.

2 Q Has she sent any?

3 A I'm not sure.

4 Q Have you participated in the Community

5 Advisory Group?

6 A No.

7 Q Do you receive any e-mails from the

8 Community Advisory Group?

9 A No.

10 Q Do you belong to any Internet e-mail group

11 or blog or website where the litigation is

12 discussed?

13 A No.

14 Q Have you ever posted comments on any site

15 pertaining to this litigation?

16 A No, I don't do that at all.

17 Q You've provided your counsel with certain

18 documents and information pertaining to this

19 lawsuit; correct?

20 A Correct.

21 Q What was your understanding or what is

22 your understanding on what it is that should be

23 preserved related to this lawsuit?

24 A I'm not sure I understand the question.

25 Q Okay. Do you have an understanding that

1 you are to retain information associated with
2 this lawsuit?

3 A Maybe I'm a little thick here. To retain
4 information that can be used for investigative
5 purposes and that sort of thing?

6 Q No. I'm asking whether you have documents
7 or e-mails or other information, do you have an
8 understanding whether or not you were supposed
9 to have retain that information?

10 A No. I've given information upon request.

11 Q But you don't --

12 A I haven't been asked to retain anything,
13 that I'm aware of.

14 Q Counsel's not shown you or provided you
15 with any type of a preservation order?

16 A No.

17 Q Have you replaced your computer since
18 December 22, 2008?

19 A No.

20 Q Same computer you have today is the same
21 computer that existed then?

22 A That's correct.

23 Q Do you regularly go in and delete your
24 e-mails?

25 A No.

1 Q Do you ever delete e-mails?

2 A Yes.

3 Q And what process do you use to do that?

4 Do you delete them out of your inbox?

5 A Typically delete them out of my deleted
6 box.

7 Q And how frequently do you do that?

8 A Fairly infrequently. Maybe twice a year
9 is usually when the computer tells me that it
10 needs more room.

11 Q Sir, has any environmental testing been
12 conducted on your property?

13 A Yes.

14 Q Okay. Tell me about that.

15 A A gentleman came over representing Lief, f,
16 Cabraser last week, I believe it was three
17 gentlemen, and took debris samples of various
18 areas around the property and the house, outside
19 areas.

20 Q You say debris samples -- first of all,
21 let's back up.

22 The work that they performed was all
23 outside of your home?

24 A Correct.

25 Q No work was performed inside your home?

1 A None.

2 Q And who were these three individuals?

3 A I don't have their names. They
4 represented -- they were working for Lief, f,
5 Cabraser. They didn't give me any cards. They
6 introduced themselves. I'm terrible with names.
7 I probably forgot them. They asked me to escort
8 them down to the boathouse. I did. They then
9 set up in the garage, analyzed the samples that
10 they were taking, and I checked with them from
11 time to time.

12 When they left, they actually didn't
13 even tell me goodbye. They checked -- my wife
14 was outside, and they told her goodbye, and they
15 were gone.

16 Q How was that visit arranged?

17 A I was notified through Lief, f, Cabraser
18 that they were coming. They asked, basically,
19 for my permission onto the property, which I
20 gave. I think I was notified a day ahead of
21 their arrival.

22 Q Did you request sampling be performed?

23 A No.

24 Q And you said they set up in the garage.

25 What did they set up?

1 A A microscope. I saw a microscope.

2 Q And what were they putting under the
3 microscope?

4 A Debris that they had collected, dust
5 particles, debris laying on horizontal surfaces
6 that they had swept up. They were looking at
7 those.

8 Q And where did they collect the samples
9 specifically?

10 A Specifically, I only know of one area.
11 They generally were down at the boathouse and
12 various areas around the house -- excuse me. I
13 know two areas. One was around the mailbox, and
14 one was on a patio table sitting on my deck.
15 Those are the only two that I saw them
16 collecting.

17 Q I'm not sure I'm tracking you. You had
18 mentioned that they were down by the boat dock,
19 but you also mentioned your patio table and your
20 mailbox. What were they doing at each of those
21 locations?

22 A Sampling. They took some samples from the
23 boathouse area, I don't know exactly where, and
24 then at some point they ended up back at the
25 house and took samples there also.

1 Q When you say at the house, you're talking
2 about at the mailbox and at your patio table?

3 A Yes.

4 Q Describe -- go ahead, sir.

5 A And I assume other areas around there,
6 around the house.

7 Q Did you accompany them the whole time?

8 A No.

9 Q How long were they there?

10 A Three hours.

11 Q What kind of equipment did they use other
12 than a microscope?

13 A I saw little paintbrushes and squares of
14 paper, about four inches square, that they used
15 to brush the debris up on, deliver it to the
16 analyst, and he had some equipment there that he
17 was -- some sort of liquid he was adding to the
18 debris and making his analysis. I didn't really
19 see exactly what was going on.

20 Q Did you take any photographs?

21 A No.

22 Q Did you discuss the sampling with any of
23 these individuals?

24 A No.

25 Q And other than using a paintbrush and a

1 filter --

2 A It wasn't a filter. It looked like just a
3 piece of paper that they were brushing the
4 debris up onto to transport it to the garage
5 where the microscope was.

6 Q And they collected that from the patio
7 area, I think you said the patio table; is that
8 correct?

9 A Yes.

10 Q And the mailbox?

11 A Yes.

12 Q And you had mentioned the boat dock. What
13 specifically did they do around the boat dock?

14 A They did the same thing. I don't know
15 where they took the samples from.

16 Q Did these individuals show up in a vehicle
17 together?

18 A There was two vehicles.

19 Q Okay. Was there any writing on the side
20 of the vehicle?

21 A I don't think so.

22 Q You don't have any idea who these
23 individuals are or who they work with?

24 MS. ALEXANDER: Objection.

25 BY MR. ANSTOETTER:

1 Q Did you understand the question?

2 A I believe I did.

3 Q Okay.

4 A The only thing -- one individual indicated
5 that he was associated with Lief, Cabraser. I
6 don't know if he was a consultant or he actually
7 was an employee. The other two I do not know
8 who they represented at all.

9 Q Have you seen or are you aware of the
10 results of those samples?

11 A I haven't seen any results. The person
12 under the microscope did make a comment one time
13 in my presence that he had seen a trace amount
14 on that particular sample, and I had overheard
15 that. That's all I overheard.

16 Q A trace amount of what?

17 A Ash.

18 Q And was that the specific word that he
19 used, was "ash"?

20 A No.

21 Q What did he -- what word did he use?

22 A He just said trace amount.

23 Q He didn't identify the constituent, the
24 compound or the chemical involved?

25 A No.

1 Q Do you know which -- which location that
2 sample was collected from?

3 A No.

4 Q Do you know what they did with the
5 samples?

6 A I don't.

7 Q Did they put them in bags or baggies or
8 any other container and take them off the
9 property?

10 A I don't know. As I mentioned, I was in
11 the house. They left not to my knowledge. I
12 just stuck my head out the door, and they were
13 gone.

14 Q Did you ask them any questions about what
15 they were looking for?

16 A Yes.

17 Q And what did they say?

18 A Ash.

19 Q Ash?

20 A Ash.

21 MS. ALEXANDER: Ms. Cabraser -- or
22 Ms. Alexander.

23 MS. ALEXANDER: I'll take that,
24 though.

25 MR. ANSTOETTER: Have either the

1 samples or the results been provided to TVA?

2 MS. ALEXANDER: You know, I'll have
3 to check with my co-counsel on that and get back
4 to you.

5 BY MR. ANSTOETTER:

6 Q Sir, did you have -- I believe you
7 answered this, but I just want to make sure the
8 record's clear.

9 Have you ever had the indoor area of
10 your home tested?

11 A No.

12 Q Have you ever had an environmental audit
13 of your property done?

14 A No.

15 Q And you don't have an understanding of the
16 results of the test; is that correct?

17 A None.

18 Q Okay. Did you have an understanding that
19 the -- that the samples that were collected were
20 going to be taken to a lab for laboratory
21 analysis?

22 A No. I don't know what they were going to
23 do with them.

24 Q As you sit here today, sir, did you have
25 an understanding of the results of those tests

1 and what it is that they indicate or don't
2 indicate?

3 MS. ALEXANDER: Objection. He's
4 answered that question a number of times.

5 THE WITNESS: I have no
6 understanding.

7 BY MR. ANSTOETTER:

8 Q You have no understanding?

9 A Of --

10 Q You have no understanding of what those
11 samples depict or indicate; is that correct?

12 A I was told that they were looking for ash.

13 Q But you don't know what it is that they --
14 what they found or what they didn't find; is
15 that correct?

16 MS. ALEXANDER: Objection.

17 THE WITNESS: Other than that one
18 sample when he mentioned the word "trace."

19 BY MR. ANSTOETTER:

20 Q But you don't know what it was a trace of?

21 A He did not say trace of ash, he said
22 trace.

23 Q And you don't know where that sample was
24 collected?

25 A I do not.

1 Q Do you know how the locations were
2 selected?
3 A No, sir.
4 Q Did they test the air?
5 A Not to my knowledge.
6 Q Did they test the soil on your property?
7 A I did not see that either.
8 Q Did they test the water?
9 A I did not see that.
10 Q Did they test your drinking water?
11 A Not that I saw.
12 Q Did you provide them with any furnace
13 filters or air filters?
14 A No.
15 Q Did you preserve any air filters or --
16 strike that.
17 Did you preserve any furnace or air
18 conditioning filters?
19 A No.
20 Q Were any wipes or dust samples collected
21 at any time inside your home?
22 A No.
23 Q Do you know whether they tested any
24 properties other than yours?
25 A No.

1 Q And what date did this occur?

2 A I can't do any better than last week. I'm

3 not for sure which day it was.

4 Q Sir, what's your wife's name?

5 A Linda.

6 Q And how long have you and Linda been

7 married?

8 A 37 years.

9 Q And she lives with you at 1216 Cove Lane?

10 A That's correct.

11 Q And she's not a named plaintiff in this

12 lawsuit; correct?

13 A No.

14 Q Have you been married before?

15 A No.

16 Q Has your wife been married before?

17 A No.

18 Q Do you have children?

19 A Yes.

20 Q Can you tell me their names and ages?

21 A Christopher is 36; Kim is 31; and James is

22 29.

23 Q Can you give me their names one more time?

24 Christopher?

25 A Christopher, Kimberly, and James.

1 Q And where do they live?

2 A Two boys live in South Florida, my
3 daughter lives in Boston.

4 Q Based upon their ages and when you
5 purchased your lot in Tennessee, I'm assuming
6 they never lived with you in this home.

7 Is that correct?

8 A No, sir.

9 Q Has anybody lived in your home since the
10 time you purchased it other than yourself and
11 your wife?

12 A No.

13 Q Have they visited with you since December
14 of 2008?

15 A My daughter Kimberly and James have.

16 Q And when was that?

17 A I cannot remember.

18 Q Was it within the last year?

19 A Yes. I believe my daughter was here.

20 Q What time of year did she visit with you?

21 A I believe it was fall.

22 Q It would be fall of 2009?

23 A I believe that's correct.

24 Q Does she have children?

25 A No.

1 Q Is she married?

2 A No.

3 Q How long did she visit you in the fall,

4 2009?

5 A Three or four days.

6 Q What did you do while she was here?

7 A Just visited, nothing in particular.

8 Q Did you visit outside your home?

9 A Yes.

10 Q Where at? On your patio?

11 A Probably. That's where we would have been

12 that time of year, out in the driveway, et

13 cetera.

14 Q Did you take your boat out during that

15 period of time?

16 A I don't believe so.

17 Q What does she do for a living?

18 A She is a server at a high-end restaurant

19 at -- in downtown Boston.

20 Q Other than the visit in the fall of 2009,

21 when was the most recent time that she had

22 visited you?

23 A Prior to that?

24 Q Prior to that, yes.

25 A I cannot recall. I think it may have been

1 earlier that same year.

2 Q And how about prior to that?

3 A I think she was here in the early spring
4 of 2008.

5 Q Between the spring of 2008 and the time
6 that you purchased your home in 2006, how many
7 times did she visit you?

8 A None.

9 Q When she visited with you in 2009, either
10 in the spring or the fall, did you discuss this
11 litigation?

12 A I really don't recall. Possibly.

13 Q Did you discuss the dike failure?

14 A Possibly.

15 Q Would any of those discussions have
16 occurred by e-mail?

17 A While she was visiting?

18 Q No. At any time.

19 A Not through me.

20 Q How about through your wife?

21 A Possibly.

22 Q How long did she stay with you in early
23 2009, in the spring of 2009?

24 A I really don't recall.

25 Q Was it less than a week?

1 A Probably.

2 Q How about in the spring of 2008?

3 A Approximately a week.

4 Q What's the purpose for her visits?

5 A Just to visit Mom and Dad. The last visit
6 was that plus a stopover on the way to Boston.

7 Q And you mentioned that James has visited
8 you; correct?

9 A Yes.

10 Q Since you purchased the home in 2006, how
11 many times has James visited your property?

12 A I believe twice.

13 Q Okay. Generally what were the time frames
14 for those visits?

15 A He visited in early 2008 along with my
16 daughter, and the other time I believe was
17 several months into 2009.

18 Q Was that at the same time that Kimberly
19 visited you in the fall 2009, or was it a
20 different time?

21 A No, that was a different time.

22 Q And how long did he stay with you in 2009?

23 A Approximately a week.

24 Q And does he have children?

25 A He does now.

1 Q Did he at that time?

2 A No.

3 Q Did he bring his wife?

4 A Yes.

5 Q In 2008 and 2009?

6 A Yes. She was not his wife in '08, but she

7 was with him.

8 Q Other than between early 2008 and the time

9 you purchased your home, did James visit your

10 property --

11 A No.

12 Q -- at any time? Okay.

13 And Christian has never been to your

14 home?

15 A Chris.

16 Q Chris, I'm sorry.

17 A Christopher.

18 Q Christopher, I'm sorry.

19 A He has.

20 Q When was that?

21 A He visited along with his brother and

22 sister in early 2008.

23 Q And does he have children?

24 A Yes.

25 Q And did he bring his children in early

1 2008?

2 A Yes.

3 Q Is there any reason he hasn't visited you
4 since early 2008?

5 A Not a good reason in my book. No, nothing
6 in particular, than money's a little tight and
7 work, et cetera.

8 Q Are your parents still living?

9 A No.

10 Q Are your wife's parents living?

11 A No.

12 Q When did both sets of parents pass?

13 A My dad passed in 2002, my mom in 2008, my
14 wife's mother passed in I think it was '05, and
15 her father in '06, I believe.

16 Q And what were the causes of death?

17 A My father had cancer, my wife's father
18 also. My wife's mother, I'm not sure what that
19 was, it was a sudden decline and she passed away
20 in the hospital. My mother had suffered a
21 stroke.

22 Q Thank you. Do you have any siblings?

23 A I have a sister.

24 Q And where does she live?

25 A She lives in Cumming, which is north of

1 Atlanta, Georgia.

2 Q What's her name?

3 A Rebecca.

4 Q And her last name?

5 A Elliott.

6 Q And is she married?

7 A Yes.

8 Q What's her husband's name?

9 A Lonnie.

10 Q And have they visited your property since
11 you bought it here in 2006?

12 A Yes.

13 Q Okay. How many times in general and when?

14 A I can't recall. Fairly numerous due to
15 their proximity. They don't always visit
16 together, but --

17 Q Has the frequency of their visits changed
18 since 2006?

19 A No.

20 Q And when they visit, do they go out on the
21 boat with you?

22 A No.

23 Q What do you do when they come?

24 A Mostly if my sister comes, she and my wife
25 run off shopping and those sorts of things. My

1 brother-in-law hasn't been here -- I can't
2 remember the last time he was here, but he has
3 visited. I think we went on out on the boat
4 with her once and him possibly more than once.

5 Q And when was that?

6 A It would have been in 2008.

7 Q What time period?

8 A It would have been the summer.

9 Q Has your sister's activities, when she
10 comes to visit, changed in any way since 2006?

11 A No.

12 Q Sir, when did you graduate from grade
13 school in Homestead, Florida?

14 A When?

15 Q Yes.

16 A I don't recall.

17 Q How about we work backwards.

18 A Yeah, we could do that.

19 Q Okay. How about when you received your
20 bachelor's degree?

21 A That was in late 1969, December.

22 Q And in what discipline?

23 A Aerospace engineering.

24 Q Did you have any other advanced degree
25 beyond your BS in aerospace engineering?

1 A No.

2 Q And when did you graduate from high
3 school?

4 A 1965.

5 Q So grade school would have been --

6 A In 1960, I guess.

7 Q Okay. Did you serve in the military?

8 A No.

9 Q Did you have a specialization in aerospace
10 engineering?

11 A No.

12 Q And you're retired now; is that correct,
13 sir?

14 A Correct.

15 Q And when did you retire?

16 A I retired from the company I spent my
17 entire career with in 2004. I took on a
18 consulting job for a couple of years after that,
19 which was kind of a part-time job, and then I
20 was completely retired.

21 Q And where did you work?

22 A I worked at a company called Pratt
23 Whitney.

24 Q And which location?

25 A They have a location in Florida where I

1 spent most of my career. The last four and a
2 half years I was in Hartford, Connecticut.

3 Q Where in Florida?

4 A They have a facility in the -- it's in the
5 West Palm Beach area. It's actually north of
6 that.

7 Q Is that where you spent your entire
8 career, at that facility, prior to going to
9 Hartford?

10 A Yes.

11 Q And starting with your most recent job
12 responsibilities when you were with Pratt
13 Whitney in Florida, describe what it is that you
14 did and work backwards to the time that you took
15 that position.

16 A I was a supervisor in the experimental
17 test laboratory. We conducted laboratory
18 testing of jet engine components. I was an
19 engineer in that laboratory, a trainee in that
20 laboratory.

21 Prior to that I was an experimental
22 engineer in the engine test section. That's
23 where my career started out.

24 Q Did you test those engines on site?

25 A Yes.

1 Q And what type of chemical and compounds
2 were associated with that testing?

3 A Other than -- I need to explain a little
4 bit.

5 I was supporting the engine tests. I
6 was doing strain gauge analyses. The only thing
7 I'm aware of that they used was jet fuel, oils,
8 lubricants.

9 Q Chlorinated solvents?

10 A Probably.

11 Q And were you around the testing when it
12 occurred?

13 A I was in a test cell when the engine was
14 running. I would be around the engine when it
15 was not running.

16 Q And how long did you work in the engine
17 testing section?

18 A About two and a half years.

19 Q And during that period of time you would
20 have been around the types of compounds or
21 chemicals or products that were used as part of
22 that engine testing; is that correct?

23 A Yes.

24 MS. ALEXANDER: Object to form.

25 BY MR. ANSTOETTER:

1 Q Did you understand the question, sir?

2 A I believe I did.

3 Q Okay. And I think your answer was "yes"?

4 A I was in the vicinity of them. I wasn't

5 using them.

6 Q After you -- after you worked in the

7 engine test section, what was the next thing you

8 did for Pratt Whitney?

9 A I went into the laboratory, experimental

10 testing.

11 Q And what did you do in the laboratory?

12 A I tested engine components on the bench.

13 Q And what types of chemicals or compounds

14 were used as part of that testing?

15 A We would use adhesives, cleaners. That's

16 about it.

17 Q By cleaners, you're talking about

18 chlorinated solvents?

19 A Acetone. I'm not sure if that's

20 chlorinated or not.

21 Q Trichloroethylene?

22 A I don't know.

23 Q No, or you don't know?

24 A I'm not positive. I believe the answer is

25 no.

1 Q Did you have parts washers?

2 A No.

3 Q Degreasers?

4 A No. That was -- somebody else did that.

5 Q And how long did you work in the
6 laboratory?

7 A Would have been there about 28 years.

8 Q And after the laboratory, what was your
9 next position?

10 A When I moved to East Hartford, I was an
11 assistant lead of an experimental testing of
12 lubrication systems for jet engines.

13 Q Can you describe the type of work you
14 performed in that role?

15 A We would build rigs to simulate engine --
16 simulate -- using engine hardware to simulate
17 engine conditions and run those rigs in a test
18 cell.

19 Q And what compounds or products were you
20 around as part of that job?

21 A I'm not sure. Similar compounds,
22 cleaners, that sort of thing. By that time, I
23 believe they had -- had cleaned up the types of
24 cleaners that were allowed to be used. I'm not
25 really well-versed in that. I didn't actually

1 conduct it myself, and I wasn't in the test cell
2 when it was being conducted. We just showed up
3 and ran the test.

4 Q When you say they cleaned up the cleaners,
5 what does that mean?

6 A Well, OSHA had limited the types of
7 compounds that could be used for cleaners for
8 health reasons. I'm not really well-versed on
9 that. I just know that there were some cleaners
10 that were disallowed that we used early on,
11 weren't allowed.

12 Q Did you ever wear protective clothing?

13 A Yes.

14 Q Describe when and how often you'd wear
15 protective clothing and for what job function.

16 A I would wear ear protection during my
17 tenure as a vibrations test engineer. And ear
18 protection for just about everything else. That
19 was the only protective clothing that I had to
20 wear as an engineer.

21 Q Did you ever suffer an injury?

22 A No.

23 Q Make any Workers' Compensation claims?

24 A No.

25 Q Any medical problems or medical issues

1 associated with your employment?

2 A No.

3 Q Have you ever been involved in litigation
4 before, sir?

5 A Yes.

6 Q Can you describe that for me?

7 A Once years ago when my daughter was
8 approximately five there was an incident where
9 she got some glass in her foot, and we believed
10 the doctor was negligent in his approach to
11 that. He ended up sewing up a piece of glass
12 into her foot. We had to go back. When we
13 found that out, there was some litigation that
14 was settled out of court against him, against
15 the doctor.

16 Q And did you bring that lawsuit on behalf
17 of your daughter?

18 A Yes.

19 Q And did you have a deposition in that
20 case?

21 A No. No.

22 Q And where was that case filed?

23 A That would have been in Palm Beach County,
24 Florida.

25 Q Were you involved in any litigation

1 involving Pratt Whitney?

2 A No.

3 Q Did your job ever make you sick or ill or
4 miss work?

5 A No.

6 Q What's the most number of consecutive days
7 that you missed employment for sickness or
8 illness reasons?

9 A I recall -- I believe the answer to that
10 is one time I had a bad case of the flu, and I
11 was probably out for a week, maybe 10 days.

12 Q During the period of time that you worked
13 at Pratt Whitney, did you work around silica?

14 A No.

15 Q Asbestos?

16 A No.

17 Q Beryllium?

18 A No.

19 Q Mercury?

20 A No.

21 Q Manganese?

22 A No.

23 Q Selenium?

24 A No.

25 Q Sodium?

1 A Sodium. Salt?

2 Q Uh-huh.

3 A No, sir, unless you include the cafeteria.

4 Q How about arsenic?

5 A No.

6 Q Do you believe, sir, that you were exposed

7 to any chemicals or compounds during your

8 employment at Pratt Whitney?

9 A That I was exposed to any chemicals?

10 Q Yes.

11 MS. ALEXANDER: Objection to the

12 form.

13 THE WITNESS: You mean in contact

14 with my skin?

15 BY MR. ANSTOETTER:

16 Q Yes. Yes.

17 A Yes.

18 Q Okay. And tell me about that.

19 A There is undoubtedly times where I have

20 used acetone maybe to clean a part myself. I

21 can't give you specific instances, but there

22 undoubtedly were occurrences where even as an

23 engineer I got my hands dirty.

24 Q So by exposure you meant coming in

25 contact, personal contact?

1 A Yes.

2 Q Okay.

3 A I assume that's what you meant.

4 Q Did that cause you any concern?

5 A No.

6 Q Have you ever made an insurance claim for

7 disability or health reasons?

8 A No.

9 Q Have you ever been involved in bankruptcy

10 proceedings?

11 A No.

12 Q Ever had any criminal arrests?

13 A No.

14 Q Sir, how did you get involved in becoming

15 a class representative in this lawsuit?

16 A I was requested to be such through Lief, f,

17 Cabreraser.

18 Q And when did that -- when was that request

19 made?

20 A I'm not sure of the date. It would have

21 been last year.

22 Q Are you familiar with the -- with the

23 case -- with the Blanchard case? Have you ever

24 heard of the Blanchard case?

25 A Not -- no.

1 Q How about Giltthane?

2 A No.

3 Q Okay. Prior to becoming a class
4 representative in this litigation, is it your
5 understanding that you were a class
6 representative in another case?

7 A No.

8 Q Okay. So are you saying a decision was
9 made last year for you to be a class
10 representative in this litigation, the Chesney
11 case?

12 A Correct.

13 Q Are you aware of when the Chesney lawsuit
14 was filed?

15 A No.

16 Q Who suggested that you be a class
17 representative?

18 MS. ALEXANDER: Object to the form
19 insofar as you're getting into conversations
20 between Mr. Gaddis and counsel.

21 If you can answer the question -- I
22 don't see how he can answer the question.

23 MR. ANSTOETTER: I'm just following
24 up on his testimony where he said it was
25 suggested to him. And I'm just asking --

1 MS. ALEXANDER: I understand. But
2 you're getting into conversations between him
3 and counsel.

4 BY MR. ANSTOETTER:

5 Q When was it suggested that you become a
6 class representative?

7 A It would have been last year.

8 Q Okay. Do you keep a calendar?

9 A No.

10 Q Do you keep an appointment book?

11 A No.

12 Q Other than the -- Mr. McFarland, did you
13 consider any other counsel to represent you?

14 A No.

15 Q What do you do, sir, to keep yourself --
16 strike that.

17 Do you keep yourself involved or up
18 to date in the progress of the litigation?

19 A I don't make an effort to do such. I find
20 out through various sources, Lieff, Cabraser, et
21 cetera. I don't go out and seek it, if that's
22 what you mean.

23 Q So other than communicating with your
24 counsel about the status of the litigation, you
25 don't do anything else to keep apprised of the

1 status of litigation; is that correct?

2 A No, I don't send off e-mails to question
3 what's happening or how are things going or --

4 MS. ALEXANDER: Mark, when it's a
5 good time to take a break.

6 MR. ANSTOETTER: Sure. Let me just
7 finish up this line, and then we'll take a
8 break.

9 MS. ALEXANDER: That's fine.

10 BY MR. ANSTOETTER:

11 Q Have you ever talked to Erin Brockovich?

12 A I have seen Erin Brockovich. I haven't
13 talked to her.

14 Q When did you see Erin Brockovich?

15 A Her firm, I can't even think of the name
16 of them, had a -- I guess information session at
17 Roane State Community College one time, and we
18 attended that, my neighbor and I, just to see
19 what they had to say.

20 Q Okay. And what did they have to say?

21 A They were -- in my estimation, they were
22 trying to solicit litigants. I can't recall
23 anything specific.

24 Q Was it something that was said that caused
25 you to have that belief?

1 A That they were trying to solicit? Not
2 really. It's probably just my sarcastic
3 viewpoint.

4 Q Did they provide any information or
5 handouts?

6 A If they did, I didn't take any.

7 Q Did you send any e-mails to
8 Ms. Brockovich?

9 A No. That was the only contact I've had
10 with them at all.

11 Q What did they -- what did they talk about
12 at that meeting?

13 A About the ash spill, about their law firm,
14 what they thought the progress was going to be
15 or not going to be. They answered a few
16 questions from the audience. That's all I
17 recall about it. It was not very noteworthy to
18 me, that session.

19 Q How did they describe, to use your terms,
20 what they thought the progress was going to be?

21 A They just gave their best guess as to a
22 time line as to how the litigation was going to
23 proceed, would it go to trial, et cetera.

24 Q What did they say?

25 A I don't recall what they said. As far as

1 dates?

2 Q Uh-huh.

3 A I don't recall the dates they gave.

4 Q Did they express health concerns?

5 A Probably.

6 Q Did that have an impact on you?

7 A No. No.

8 Q Why not?

9 A They didn't have anything to say that I
10 thought was significant as far as my standpoint
11 was concerned. They didn't offer anything that
12 I thought was significant. I just wanted to be
13 there in case there was something that came out
14 of it. And there was nothing.

15 Q Did you consider going with the law firm
16 that was also --

17 A No.

18 Q -- there?

19 A No.

20 Q How come?

21 A I can't recall if we had already signed on
22 with Lief, Cabraser or not at that point. If
23 we were, that's the reason. I just wasn't --
24 wasn't impressed, wasn't -- they were out of, I
25 think, New York, and I wanted somebody a little

1 closer than that.

2 Q Was it the Weitz Luxenberg firm?

3 A I don't know. You tell me.

4 Q Are you aware of --

5 A I've forgotten. I mean at the time I
6 knew. I just missed that -- I'm forgetful
7 enough. What I don't forget I usually flush out
8 of my head if I don't think it's important.

9 Q Are you aware that individuals have filed
10 their own lawsuits that are not associated with
11 Lieff, Cabraser or any of the law firms that are
12 representing you?

13 A I have heard that.

14 Q What's your understanding of those
15 individual lawsuits?

16 A I don't have an understanding. I have no
17 knowledge at all. I just heard that they're out
18 there.

19 Q Do you know if anybody who's represented
20 by counsel, other than counsel for what I'll
21 call the Chesney litigation, which is the
22 subject of the deposition here today?

23 A No.

24 Q Sir, have any of your family members
25 encouraged you or discouraged you from

1 participating in this lawsuit?

2 A My wife is on board I'll say. Other than
3 that, no.

4 Q Have you or your wife done any research or
5 investigation in connection with this lawsuit?

6 A No.

7 Q We can take a break here.

8 MS. ALEXANDER: Thanks.

9 (Recess.)

10 BY MR. ANSTOETTER:

11 Q Sir, I want to talk a little bit about the
12 Complaint in this lawsuit, and I want to begin
13 by talking a little bit about what you're not
14 claiming.

15 Okay?

16 A Okay.

17 Q You're not claiming that you have suffered
18 any personal injury as a result of anything that
19 TVA has done; correct?

20 A Correct.

21 Q You're not making any health claim
22 whatsoever arising out of the dike failure out
23 of Kingston; correct?

24 A Correct.

25 Q You're not claiming emotional distress;

1 correct?

2 A Correct.

3 Q You're not claiming any injury to pets or
4 livestock?

5 A Correct.

6 Q You're not seeking medical monitoring;
7 correct?

8 A Partially I am not.

9 Q Okay.

10 A I would take it, though.

11 Q Okay. Explain to me. You understand in
12 this lawsuit you're a class representative for
13 certain aspects of the case; correct?

14 A Correct.

15 Q Okay. And is it your belief that you're a
16 class representative for medical monitoring
17 purposes?

18 A Correct.

19 (Marked Exhibit 1.)

20 BY MR. ANSTOETTER:

21 Q Okay. Sir, I'm handing you what's been
22 marked as Gaddis Deposition Exhibit 1.

23 Have you seen that document before?

24 A Yes.

25 Q And when's the first time you saw that

1 document?

2 A It would have been last year. I can't
3 tell you the date.

4 Q And in paragraph 2, would you read the
5 second sentence into the record?

6 A Second sentence?

7 Q Second sentence of paragraph 2.

8 A Oh, I see.

9 "Plaintiffs George
10 Chesney, Virgil Maines, Patricia
11 Cordell, and Donald Simon also
12 seek the establishment of a fund
13 by Defendants for medical
14 monitoring of members of the
15 proposed Resident Class or in
16 the alternative, the
17 establishment of a supervised
18 medical monitoring program."

19 Q Okay. I didn't see your name listed
20 there.

21 Is that correct?

22 A That's correct.

23 Q Okay. Is it still your understanding that
24 you're a class representative for medical
25 monitoring purposes?

1 A Yes, it is.

2 Q When did you gain that understanding?

3 A I believe it was the first time I read
4 this.

5 Q Okay. Can you show me anywhere in this
6 Complaint where you are listed as an individual
7 representing the class of individuals seeking
8 medical monitoring?

9 A No.

10 Q So it's been your understanding from the
11 beginning that you're a class representative for
12 medical monitoring purposes but the class action
13 complaint doesn't list you as such?

14 Is that your understanding?

15 A Yes.

16 Q And that's been your understanding from
17 the outset?

18 A Yes.

19 Q Is it your understanding, sir, that your
20 property is located within the geographic
21 boundary described in the Complaint as including
22 the medical monitoring class?

23 A Yes.

24 Q Sir, are you claiming any adverse physical
25 reaction or physical symptom?

1 A Personally?

2 Q Yes.

3 A No.

4 Q Have you experienced any adverse physical
5 reaction or physical symptom such as coughing or
6 skin irritation or stomach problems, headaches,
7 nausea, runny eyes, watery eyes?

8 A That I can contribute to the spill?

9 Q Yes.

10 A No.

11 Q Sir, are you claiming that you have been
12 exposed to a particular compound, chemical or
13 contaminant associated with the dike failure?

14 A Yes.

15 Q Okay. And what specifically is it that
16 you claim that you have been exposed to and
17 when?

18 A The compounds that are listed as being
19 contained in coal ash.

20 Q And what --

21 A And that have been discovered by
22 subsequent investigation --

23 Q Okay.

24 A -- by whatever authorities are doing that,
25 TVA, et cetera.

1 Q What compound, sir?

2 A Well, arsenic, selenium and the other
3 compounds that are listed in here. I can't list
4 them all. I don't have them memorized.

5 Q And how is it that you claim that you've
6 been exposed?

7 A Airborne.

8 Q Were you exposed this morning?

9 A I don't know.

10 Q Can you give me a date when you believe
11 you were exposed to anything that's listed in
12 the Complaint?

13 A The initial date would have been December
14 24, 2008.

15 Q What happened on that date?

16 A We returned from Atlanta. We were not
17 here during the spill. It was our first date on
18 site after the spill.

19 Q Are we exposed in this building where this
20 deposition is being taken today?

21 A I don't know.

22 Q Were you exposed this morning on your
23 drive to this location?

24 A I don't know.

25 Q Were you exposed yesterday?

1 A I don't know.

2 Q Other than December 24, 2008, can you
3 point to any particular day where you believe
4 that you've been exposed to any compound,
5 chemical or constituent associated with the dike
6 failure?

7 A There must -- I'm not quite clear on that
8 question.

9 MS. ALEXANDER: Objection.

10 BY MR. ANSTOETTER:

11 Q Can you tell me a particular date and time
12 for each claimed exposure that you believe is
13 associated with the December 22, 2008, dike
14 failure?

15 MS. ALEXANDER: Object to the form.

16 THE WITNESS: Without listing every
17 single day, no, I don't have particular dates
18 and times where I saw a large amount of ash come
19 through in the air or anything like that.

20 BY MR. ANSTOETTER:

21 Q So do you believe that you've been exposed
22 continuously every day since 12/22/2008.

23 MS. ALEXANDER: Object to the form.

24 THE WITNESS: Yes.

25 BY MR. ANSTOETTER:

1 Q And what's the basis for that belief, sir?

2 A Because of the ash that was spilled and
3 the contamination of the air, et cetera, in the
4 vicinity. I'm in close vicinity to the spill,
5 and therefore, I believe that I've been
6 subjected to it.

7 Q Okay. So the transport mechanism under
8 which you claim to have been exposed is through
9 the air; is that correct?

10 A Yes.

11 Q And can you point me to any support that
12 indicates your exposure --

13 MS. ALEXANDER: Objection.

14 BY MR. ANSTOETTER:

15 Q -- to anything through the air.

16 MS. ALEXANDER: Objection.

17 THE WITNESS: Are you talking about
18 analysis that would support the existence of --

19 BY MR. ANSTOETTER:

20 Q Yes. An analysis, a documentation, proof,
21 that you believe evidences your claimed
22 exposure.

23 A No.

24 Q Okay. Sir, have you requested that the
25 air on your property be tested for any

1 contamination, constituent or compound?

2 A No.

3 Q Sir, describe for me what you believe your
4 claim is in this lawsuit.

5 A My personal --

6 Q Yes.

7 A -- concern?

8 Q Yes. What are you asking for?

9 A Well, what I'm personally asking for is
10 compensation for loss of use and -- and
11 diminished value.

12 Q Diminished property value?

13 A Correct.

14 Q Are you seeking any out-of-pocket
15 expenses?

16 A No.

17 Q Any lost rental value?

18 A No.

19 MS. ALEXANDER: Object to the form.

20 BY MR. ANSTOETTER:

21 Q Are you asking TVA to do anything with
22 respect to your property?

23 A No.

24 Q Are you asking anyone to do anything with
25 respect to your property?

1 A In association with the spill?

2 Q Yes.

3 A No.

4 Q Are you seeking anything else personally
5 as part of this lawsuit, sir?

6 A Other than the two items that I stated,
7 no.

8 Q Diminished property value?

9 A Right.

10 Q And compensation for loss of use?

11 A Loss of use, yes.

12 Q Sir, when did you purchase your property?

13 A It was very late May or very early June of
14 2006.

15 Q And what brought you to the Kingston area?

16 A We had a friend in South Florida who moved
17 back where she came from, which was Knoxville.
18 I was -- lived my entire life in South Florida.
19 Hurricanes, et cetera, caused us to look around
20 for other places. I wanted to find a place on
21 the water. There wasn't a lot of science
22 involved in it. We ended up with a --
23 associated with a Realtor out of Oak Ridge and
24 ended up looking around the area and bought the
25 house -- bought this house. Just kind of

1 happened.

2 Q Did you sell a house in Florida?

3 A Yes.

4 Q Okay. How long did you own that home?

5 A Approximately 30 years.

6 Q How much did you sell it for?

7 A I ought to know this. \$410,000, I believe
8 it was.

9 Q And when did you sell it?

10 A Sold it in August of 2007, closing date.

11 Q Between May of 2006 and August of 2007,
12 which home did you reside in?

13 A I resided personally mainly in the house
14 in Florida because I still had a consulting job
15 down there. My wife spent a lot of time between
16 the two.

17 Q How much of your time between May 2006 and
18 August 2007 did you reside in Kingston?

19 A I'm going to say 25 percent.

20 Q Since August 2007 to present, how much of
21 your time have you resided at your residence in
22 Kingston?

23 A All of it.

24 Q Have there been any extended periods when
25 you have not spent the night in that home?

1 A State that again, please.

2 Q Yeah. Since August of 2007 to present, on
3 how many evenings have you stayed someplace
4 other than at your location in Kingston?

5 A For vacations and --

6 Q Or any reason.

7 A I would say maybe 5 percent of the time
8 we're away.

9 Q For example, sir, you said that you were
10 not at your home on December 22 or December 23.

11 A Yes.

12 Q Is there a place that you vacation or go 5
13 percent of the time?

14 A We go to Atlanta a lot, or Cumming, to see
15 my sister, and we visit the kids back in
16 Florida.

17 Q And I think you've answered this question.
18 But it's only been yourself and your wife that
19 have lived at the home in Kingston other than an
20 occasional visit from family; is that correct?

21 A That's correct.

22 Q And this is the only property that you're
23 seeking to recover damages as part of this
24 lawsuit; correct?

25 A That's correct.

1 Q When you bought the property, were you
2 aware of the -- of its proximity to TVA?

3 A Yes.

4 Q How long would it take you to drive from
5 your property to the main entrance of the TVA
6 Kingston Power Plant?

7 A Five minutes.

8 Q How long would it take you to travel by
9 boat?

10 A To the plant?

11 Q Yes, to the plant.

12 A Probably about the same amount of time.

13 Q And how far is your property in distance
14 as the crow flies from your property to the tall
15 stacks at the Kingston Power Plant?

16 A About a mile, maybe a little less as the
17 crow flies.

18 (Marked Exhibit 2.)

19 BY MR. ANSTOETTER:

20 Q I'm handing you what's been marked as
21 Gaddis Deposition Exhibit 2. And I'll represent
22 to you that that is a street map of the Kingston
23 area in and around the Kingston Fossil Plant.

24 A Okay.

25 Q Is that a fair and accurate depiction of

1 the area around the Kingston Fossil Plant?

2 A I believe that it is.

3 Q Okay. Can you locate your property on
4 that map?

5 A That's what I'm looking for. Where is the
6 cove? Oh, right there. Do you want me to --

7 Q Sure. Why don't you use a blue Sharpie
8 and just put an X there, and why don't you just,
9 off to the side, write your address.

10 A Right here?

11 Q Why don't you put it in the water.

12 A (Witness complies.)

13 Q What direction is your home generally from
14 the Kingston Fossil Plant?

15 A It would be southeast.

16 Q And how would you describe the area around
17 your home as far as neighborhood
18 classifications?

19 A Residential.

20 Q Is there also -- are there also commercial
21 or businesses in close proximity to your home?

22 A How close is close?

23 Q Within a third of a mile.

24 A Yes.

25 Q What are the various types of zoned

1 property within a mile of your home.

2 MS. ALEXANDER: Object to the form.

3 BY MR. ANSTOETTER:

4 Q Do you understand the question?

5 A Within a mile?

6 Q Uh-huh.

7 A There's residential and the commercial
8 property on Kentucky Street on the opposite side
9 of the street from where we live.

10 Q Any other kind of property to your
11 knowledge?

12 A Not that I'm aware of.

13 Q Does your neighborhood have a name?

14 A Yes. I got a mental block on this. I
15 know the people across the road, across the
16 cove, River Oaks. We are -- oh, my goodness,
17 this is awful. Can I tell you that later?

18 Q Sure. Do you have a homeowner's
19 association?

20 A No. No.

21 Q Do you have any common covenants that
22 apply to your neighborhood?

23 A Yes.

24 Q Can you describe generally what those are?

25 A I can only describe one.

1 Q Which is?
2 A No temporary vehicles or temporary
3 residences on the area.
4 Q And do you have a copy of those covenants?
5 A I do.
6 Q Have you provided that to your counsel?
7 A No.
8 Q Sir, how big is the lot upon which your
9 home resides?
10 A About three-quarters of an acre.
11 Q When was the home built?
12 A 1990.
13 Q By whom?
14 A The name of the construction company or
15 the name of the owner?
16 Q The construction company.
17 A I do not know.
18 Q How would you describe the construction as
19 far as is it brick or wood or --
20 A It's brick.
21 Q Is it a one-story or two-story?
22 A Two.
23 Q And how many square feet?
24 A Approximately 3600.
25 Q Is the -- is the lower level finished?

1 A Half of it is finished, half is a
2 partially finished basement.

3 Q And what type of foundation do you have?
4 Is it poured concrete?

5 A The bottom is a slab, concrete slab.

6 Q Have you had any flooding in your
7 basement?

8 A No.

9 Q Have you ever had your home tested for
10 radon?

11 A I believe during the -- prior to the
12 closing it was tested and found negative.

13 Q Do you have a porch?

14 A We have a deck.

15 Q Okay. And what's that deck made out of?

16 A Wood.

17 Q And what -- for what purpose do you use
18 your deck?

19 A Leisure.

20 Q Do you have central air conditioning?

21 A Yes.

22 Q How many bedrooms?

23 A Three.

24 Q Do you have hardwood or carpet?

25 A Both.

1 Q In what part of the home do you have
2 carpet?

3 A The bottom level, the finished portion of
4 the bottom level.

5 Q And what is your source of water for your
6 home, sir?

7 A City.

8 Q Describe any home improvement that you've
9 made to your home since 2006 when you purchased
10 your home.

11 A We put hardwood floor on the upper level,
12 remodeling of the master bath, and some
13 painting.

14 Q And when did you do those improvements?

15 A That was done late '06, into '07.

16 Q Do you have any other home improvement
17 projects planned?

18 A No.

19 Q Is there any type of businesses run out of
20 your home?

21 A No.

22 Q Sir, do you have any photographs of your
23 property?

24 A Yes.

25 Q And when were those photographs taken?

1 A The latest --

2 Q Yes.

3 A -- photographs were taken, I'll say, a
4 couple months ago.

5 Q For what purpose did you take those
6 photographs?

7 A For an appraisal.

8 Q And did you provide those photographs to
9 your counsel?

10 A Yes.

11 Q And to your knowledge, have those
12 photographs been produced?

13 A Been what?

14 Q Have those photographs been produced in
15 this case?

16 A I don't know.

17 Q Did you produce the photographs -- strike
18 that.

19 How did you produce the photographs?

20 A They were taken by the appraiser.

21 Q Okay. So are you saying that the
22 photographs -- strike that.

23 Were there photographs of your
24 property other than what are included in the
25 appraisal report?

1 A There are other photographs that were
2 taken during -- by the Realtor during the
3 negotiations to purchase the property. Those
4 are the only ones I can remember.

5 Q Have you provided those photographs to
6 your counsel?

7 A No.

8 Q Do you still have them in your possession?

9 A I believe that I do.

10 Q Are they in digital form or hard copy
11 form?

12 A Hard copy.

13 Q Getting back to your recent appraisal in
14 2010, do you have photographs other than those
15 that were included in that appraisal report?

16 A Other than the ones that I mentioned where
17 they -- during the negotiations to purchase the
18 property?

19 Q Yes.

20 A Yes.

21 Q And have those photographs been provided
22 to your counsel?

23 A No.

24 Q And what -- do those photographs depict
25 the outside location, the outside of your home?

1 A I believe that they do.

2 Q And when were those photographs taken?

3 A 2006, I believe, yes.

4 Q So are those the Realtor photographs that
5 you mentioned as part of the purchase of the
6 home?

7 A Correct.

8 Q So --

9 A And some of those photographs may have
10 been made by the seller of the home also.

11 Q Moving forward to the 2010 reappraisal.

12 The question -- and I'm sorry if this
13 isn't clear. What I want to understand -- and I
14 can hand you a copy of your appraisal report, if
15 you want.

16 Are there any photographs associated
17 with the 2010 reappraisal that you have in your
18 possession other than those which are included
19 in the appraisal report itself?

20 A No. No.

21 Q When you provided the -- did you provide
22 to your counsel photographs that were taken in
23 2010 that were included in the 2010 appraisal
24 report?

25 A Yes.

1 Q Okay.

2 (Marked Exhibit 3.)

3 BY MR. ANSTOETTER:

4 Q Sir, I'm handing you a document marked as
5 Gaddis Exhibit No. 3. And I'll represent to you
6 that that's a packet of documents that was
7 produced to us by your counsel in this case. It
8 includes the appraisal report.

9 Are there any photographs of your
10 property other than those associated with the
11 purchase in 2006 that are not depicted in this
12 set of documents with the Bates stamp No. Gaddis
13 1 through 24?

14 A Photographs of the property -- I need
15 clarification. Photographs of the property
16 other than what's included in here?

17 Q Correct.

18 A Not including the ones that were
19 associated with the purchase of the property?

20 Q Correct.

21 A No.

22 Q You said it better than I did. Okay.

23 There are no other photographs that
24 have been taken of your property other than the
25 ones taken in connection with 2010 reappraisal

1 and 2006 property purchase?

2 A There possibly may have been photographs
3 that we took when the kids were up when they
4 were outside that may have shown some property
5 but not specifically to highlight the property.

6 Q There would have been photographs of them
7 taken outdoors?

8 A Yes.

9 Q And do you still have those
10 photographs?

11 A Probably. I -- my wife probably does.

12 Q Did you ever take photographs of time
13 spent on the dock?

14 A Probably.

15 Q And do you still have those photographs?

16 A Probably.

17 Q And would those photographs cover the time
18 period between 2006 and present?

19 A Yes.

20 Q Are those photographs kept digitally?

21 A I believe they are.

22 Q And would those show outdoor activities?

23 A I believe they would.

24 Q And that would include the period of time
25 both before and after December 22, 2008?

1 A Probably.

2 Q What about video? Have you taken any

3 video?

4 A No. No video.

5 Q So no video exists of any outdoor

6 activities on your property between the time you

7 purchased your home and present?

8 A Correct.

9 Q Do you have any pets, sir?

10 A Yes.

11 Q What kind?

12 A It's a poodle and Springer Spaniel mix, a

13 dog.

14 Q And how old is your dog?

15 A Approximately three years old.

16 Q Okay. Did you purchase him after you

17 bought the home?

18 A Yes.

19 Q And does he stay indoors or outdoors?

20 A Indoors.

21 Q Do you walk it?

22 A Yes.

23 Q And what generally is your -- do you have

24 a route that you walk typically with your dog?

25 A I don't typically walk the dog, my wife

1 does. The route is basically through the
2 neighborhood, the surface streets of the
3 residential area which is basically one loop.

4 Q And how often does she walk the dog?

5 A Through that loop, maybe once a week. She
6 plays with the dog out front for exercise, to
7 make sense out of it for you.

8 Q And how often does she play with the dog
9 out front?

10 A Two or three times a day.

11 Q Every day?

12 A Every day.

13 Q And does that vary by season?

14 A Not much.

15 Q It's a routine that your wife has with
16 your dog?

17 A Yes.

18 Q Do you have an electronic fence?

19 A No.

20 Q Does she keep him on a leash?

21 A Rarely.

22 Q Okay. So he will respect your property
23 boundaries and not run off?

24 A Yeah. That dog is very well behaved.

25 MS. ALEXANDER: Just to clarify for

1 the record, by front, which part of the -- do
2 you mean between the house and the water and the
3 house and the road?

4 A The house and the street.

5 MS. ALEXANDER: Okay.

6 BY MR. ANSTOETTER:

7 Q Does your dog swim?

8 A The dog will get in the water with some
9 help.

10 MR. ANSTOETTER: Off the record for
11 just a second.

12 (Off the record.)

13 BY MR. ANSTOETTER:

14 Q So, sir, you would not describe your dog
15 as a dog that typically enjoys being in the
16 water?

17 A The dog will not run and get into the
18 water unless somebody's in the water that she
19 wants to be with.

20 Q Without strong encouragement?

21 A Without strong encouragement.

22 Q Do you have any other pets?

23 A No.

24 Q How would you describe your -- your
25 neighbors' properties?

1 A Neighbors' properties, they are waterfront
2 properties, very similar to mine, maybe not as
3 improved as mine.

4 (Marked Exhibit 4.)

5 BY MR. ANSTOETTER:

6 Q Sir, I'm handing you what has been marked
7 as Gaddis Deposition Exhibit 4. Do you
8 recognize the boat docks in that photograph?

9 A Yes.

10 Q Okay. And that would be generally in the
11 cove across from you; is that correct?

12 A Generally across from me.

13 Q Okay.

14 A This one here is a little bit down.

15 (Marked Exhibit 5.)

16 BY MR. ANSTOETTER:

17 Q And I'm handing you what has been marked
18 as Gaddis Deposition Exhibit No. 5 which has two
19 photographs.

20 Are those photographs of the front
21 of your home?

22 A Yes, they are.

23 (Marked Exhibit 6.)

24 BY MR. ANSTOETTER:

25 Q And I'm handing you what's been marked as

1 Gaddis Deposition Exhibit 6.

2 Are those photographs of the back of
3 your home?

4 A Yes, they are.

5 Q Okay. Now, sir, going back -- going to
6 Exhibit 4, your neighbors both have boats in
7 their boat docks -- correct? -- that are
8 depicted in that photograph?

9 A These neighbors?

10 Q Yes.

11 A Yes.

12 Q And can you tell me, have you met your
13 neighbors that own the boat dock that has the
14 larger roof?

15 A I have met neither of those people.

16 Q Do you know their names?

17 A I do not.

18 Q Okay. Have you -- have you seen them use
19 their boats?

20 MS. ALEXANDER: Object to the form.

21 THE WITNESS: I have seen this boat
22 being used.

23 BY MR. ANSTOETTER:

24 Q And you were pointing to the both that's
25 in the larger boat dock?

1 A Yes.

2 Q Okay. When's the last time you saw that
3 boat being used?

4 A I'm not sure. I think it was the Fourth
5 of July.

6 Q Okay. Was there activity, sir, boating
7 activity, in your cove this weekend?

8 A Yes.

9 Q Water skiing?

10 A No.

11 Q Okay. Is the cove big enough to water
12 ski?

13 A Yes.

14 Q Okay. What activities did you see in the
15 cove this weekend?

16 A Boating, people in the boats.

17 Q Jet skiing?

18 A Yes.

19 Q People in the water?

20 A In the sense that you get wet from a jet
21 ski, but not -- I saw no swimming.

22 Q You're not suggesting that someone wasn't
23 swimming because it's impermissible to do so or
24 unsafe to do so, is it?

25 MS. ALEXANDER: Object to the form.

1 THE WITNESS: No.

2 BY MR. ANSTOETTER:

3 Q You've seen individuals swimming in
4 this -- in your cove since December 22, 2008,
5 haven't you?

6 MS. ALEXANDER: Object to the form.

7 THE WITNESS: I can't recall
8 specifically. Probably, I'll say.

9 BY MR. ANSTOETTER:

10 Q Have you had your -- when is the last time
11 you had your boat out?

12 A July 4th of this year.

13 Q Do you have a jet ski?

14 A No. I need to state, though, there is a
15 jet ski on one of the lifts in my boat dock, but
16 it is not mine and I do not use it.

17 Q Okay. Who does use it?

18 A My neighbor on my side of the cove. In
19 case there's photographs taken, you took a
20 photograph, there's a jet ski in there. But I
21 don't -- I don't use it, it's not mine.

22 Q Do you lease that slip to that individual?

23 A No, no. That's just -- I let him use it
24 because he doesn't have a lift.

25 Q When is the last time he's had his jet ski

1 out, to your knowledge?

2 A July 4th.

3 Q It hasn't been used since that time?

4 A Not that I've seen.

5 Q Have you seen activity in the cove between
6 July 4th and last weekend? And by that I mean
7 boating, recreational use.

8 A Yes, fishing over there.

9 Q And you've seen jet skis in that area
10 between July 4th and last weekend?

11 A Yes.

12 Q And you've seen boating in that cove
13 between July 4th and last weekend; correct?

14 A Yes.

15 Q And are there certain individuals that you
16 know of that use the water in that cove for
17 boating or fishing or jet skiing more than
18 others?

19 A No. No. You mean have I seen a
20 particular person using the water a lot?

21 Q Right.

22 A No, not that I've seen.

23 Q And would you agree, sir, that to the
24 extent that a person uses that cove for
25 recreational purposes is individual to that

1 person's desires?

2 A Right.

3 MS. ALEXANDER: Object to form.

4 BY MR. ANSTOETTER:

5 Q Would you agree, sir, that individuals
6 that have a property interest other than
7 adjacent to the shoreline -- and I'm talking
8 about properties that are one lot inland or two
9 lots inland have different opportunities to use
10 the water than you do?

11 A Yes.

12 MS. ALEXANDER: Object to form.

13 BY MR. ANSTOETTER:

14 Q Sir, describe your typical day to me.

15 A Get up about 8:00, have some coffee,
16 possibly do some outside lawn work, mow the
17 grass, et cetera, maybe go visit friends, have
18 friends over, maybe go shopping, go out to eat.
19 Typical retired lifestyle I would say.

20 Q Is there a particular group of friends
21 that you socialize with?

22 A We have a couple that we socialize with
23 more than anybody else.

24 Q Okay. And what are their names?

25 A Their names are Dick and Linda Tate.

1 Q Where do they live?
2 A They live in Rhea County, Whites Creek
3 area. I don't know their address number.
4 Q When's the last time you've been to their
5 home?
6 A Two weeks ago, I believe.
7 Q And when's the last time they've been to
8 your home?
9 A Labor Day, Monday.
10 Q What did you do with them at your home?
11 A We played cards, had some dinner.
12 Q Do you have a barbecue grill?
13 A Yes.
14 Q Is that on your patio?
15 A It's on the deck, correct.
16 Q When is the last time you used that
17 barbecue?
18 A That day.
19 Q You barbecued?
20 A With -- cooked outside, yes.
21 Q What did you cook?
22 A Fish.
23 Q Did you eat outside?
24 A Yes.
25 Q On your patio?

1 A Yes.

2 Q You say you cut your own grass; is that

3 correct?

4 A Yes.

5 Q Do you have a riding lawnmower or push

6 mower?

7 A Push.

8 Q Do you bag your clippings?

9 A Yes.

10 Q Do you have a mulch pile?

11 A Yes.

12 Q And where is that located?

13 A It's actually -- my neighbor lets me put

14 it in the woods on the -- on the edge of his

15 property. That would be on the north side of

16 the house.

17 Q How often do you cut your grass in the

18 summer?

19 A Once a week.

20 Q Has that changed since you bought the

21 home?

22 A No.

23 Q Have you always cut your own grass?

24 A Once we took residence, yes.

25 Q Where do you spend most of your time when

1 you're at home?

2 A The majority of the time is inside.

3 Q When you're outside, your wife lets the

4 dog run two or three times a day; correct?

5 A Correct.

6 Q You cut the grass once a week?

7 A Correct.

8 Q You have friends over and you barbecue?

9 A Correct.

10 Q You use your boat?

11 A Yes.

12 Q Do you fish?

13 A Yes, not often.

14 Q And where do you fish?

15 A Mainly of late most of my fishing has been

16 with the friends that I described at his place

17 out in the marina -- local marina down there.

18 Q But there are people that are fishing in

19 your cove?

20 A Yes.

21 Q When you take your boat out, where do you

22 go?

23 A We either go down the Clinch or the

24 Tennessee, which is basically the only place you

25 can go, we go up or down the river.

1 Q Have you pulled water skiers with your
2 watercraft?

3 A Yes.

4 Q When's the last time you pulled a water
5 skier?

6 A Summer of '08.

7 Q And who did you pull?

8 A Some other friends.

9 Q Do you water ski?

10 A No.

11 Q Does your wife?

12 A No.

13 Q When you take your boat out, do you
14 typically pull somebody water skiing?

15 A No.

16 Q Fairly infrequent event?

17 A Correct.

18 Q Is that because you don't have that many
19 friends that like to water ski?

20 MS. ALEXANDER: Objection. Form.

21 THE WITNESS: That's correct. Most
22 of the people are older, and they just didn't do
23 that anymore.

24 BY MR. ANSTOETTER:

25 Q Do you have any hobbies, sir?

1 A Not anymore.

2 Q That suggests to me that you did at one
3 time but don't --

4 A I did. I liked to play tennis, but my
5 knees won't accommodate that anymore.

6 Q When you played tennis -- well, strike
7 that.

8 Did you play tennis since moving to
9 Kingston?

10 A No.

11 Q Any hobbies other than tennis?

12 A Currently, no.

13 Q Well, were there other hobbies other than
14 tennis that you don't do anymore?

15 A When I lived in South Florida, I liked to
16 fish.

17 Q And you still do some fishing?

18 A Still do some fishing.

19 Q Do you do yard work other than mowing?

20 A Pull weeds, the typical stuff, planting,
21 things that -- I don't have a garden. Trimming,
22 you know, typical yard work.

23 Q Do you use fertilizers on your yard?

24 A Yes.

25 Q What kinds?

1 A Just 13 13 13. Get it right there at Ace.
2 I don't know if that's what you're looking for.
3 Just usually the cheapest stuff around.

4 Q Do you play any other -- do you play any
5 sports currently?

6 A No.

7 Q Have you had -- have you had knee surgery?

8 A Yes.

9 Q And has that limited your ability to
10 exercise?

11 A No.

12 Q What did you have done to your knees?

13 A I have had nothing done to my knees.

14 Q Oh, I thought you said you had knee
15 surgery.

16 A No. I said my knees won't accommodate
17 playing tennis anymore.

18 Q Okay. You haven't had knee surgery?

19 A No.

20 Q Okay. Sir, when you purchased your
21 property, was there a boat dock?

22 A Yes.

23 Q And have you yourself as owner of the
24 property applied for a Rule 26(a) permit?

25 A No. I don't know what that is.

1 Q Okay. Do you know whether or not you are
2 supposed to have a Rule 26(a) permit?

3 A I don't.

4 Q So you haven't applied with TVA for a Rule
5 26(a) permit, to your knowledge?

6 A No.

7 Q Do you have a water intake on your
8 property from the river?

9 A Yes.

10 Q And for what purpose do you use that water
11 intake?

12 A Irrigation.

13 Q You irrigate your yard; is that right?

14 A I do.

15 Q And do you have a permit for that use?

16 A Not to my knowledge.

17 Q Have you watered your yard using that
18 process throughout the period of time from 2006
19 to the present?

20 A No.

21 Q When did you start that process?

22 A I started back again in July of this year.

23 Q And when you say started back again,
24 what --

25 A Turned it on, let it run.

1 Q Okay. So from 2006 to present --

2 A I used it -- go ahead.

3 Q No. From 2006 to present, over what
4 period of time did you use intake water for lawn
5 watering purposes?

6 A From the time we took residence until the
7 spill and then commencing again in July of this
8 year.

9 Q Did anybody tell you not to use the water
10 for watering your yard?

11 A No.

12 Q Do you use the water intake for any
13 purpose other than watering your yard?

14 A No.

15 Q Have you had the water intake tested?

16 A The water itself tested?

17 Q Yes.

18 A Of the intake?

19 Q Yes.

20 A No.

21 Q Does anybody use your boat other than
22 yourself?

23 A No.

24 Q Does anybody use the jet ski other than
25 your neighbor who is the primary user?

1 A I don't know.

2 Q Does your weekend ritual or routine vary

3 from your weekly activities?

4 A No.

5 Q What type of waste disposal service do you

6 have?

7 A City sewer.

8 Q Do you use the mulch pit, for lack of a

9 better term, for any other purpose?

10 A No.

11 Q Do you do compost that material -- do you

12 move the material out of there after it's

13 composted?

14 A No.

15 Q What are your wife's hobbies?

16 A Playing with that dog.

17 Q Does she garden?

18 A Yes, a little.

19 Q What does she plant?

20 A Flowers.

21 Q And she's -- she's planted flowers fairly

22 continuously since 2006? Fair statement?

23 A In the spring, yes.

24 Q Including this last spring?

25 A Yes.

1 Q Sir, can you describe for me any
2 remediation activities that you've observed
3 associated with the dike failure?

4 A Yes. Several times I have seen the TVA
5 boats -- boat -- boats come into the cove.
6 These are the boats that have the collection
7 tank and the hose, I don't know what the best
8 word is for them, come in. And we observed them
9 with rakes, et cetera, and cleaning up stuff,
10 I'll call it, from the shoreline.

11 Q Have you observed any other activity?

12 A Barges coming up and down the Clinch
13 River. I assume they were heading into the
14 Emory around the spill. And the booms that they
15 put out in the river, I guess to collect the
16 debris, I've observed those, the floating booms.

17 Q Any other activity?

18 A On the water associated with the spill?

19 Q Associated with any remedial event after
20 December 22, 2008.

21 A There was a -- shortly after the spill
22 there was a dead racoon, I believe it was, on
23 our riprap rock, and my wife being concerned
24 with the dog called up -- she called the police
25 department, and they referred her to the TVA,

1 and they came out and bagged up the animal and
2 took it away.

3 Q Are there -- in the area where you live,
4 are there any vehicles associated with the
5 remediation that travel the road in front of
6 your home?

7 A No.

8 Q Are there any trains that are associated
9 with the remedial process that run near your
10 home?

11 A No.

12 Q Are there any trucks that haul quarry rock
13 that travel on roads in front of or near your
14 home?

15 A No.

16 Q Sir, is it your understanding that your --
17 that your property boundary ends at the 750
18 contour?

19 A Yes.

20 Q And can you generally describe for me on
21 photograph 6, the first page of photograph 6,
22 where that 750 contour is located?

23 A I don't know.

24 (Marked Exhibit 7.)

25 BY MR. ANSTOETTER:

1 Q I'm handing you what has been marked as
2 Gaddis Deposition Exhibit 7.

3 Is that an aerial photograph that
4 includes the property owned by you?

5 A Yes.

6 Q Okay. And could you -- could you first
7 just mark with an X on the rooftop which home is
8 yours? Let's use a red one.

9 And using a blue marker, can you
10 generally outline your property boundary?

11 A (Witness complies.)

12 Q Now, you have that blue line extending all
13 the way down to the water. The 750 contour
14 exists someplace between the water and your fee
15 interest in the property; correct?

16 A Correct. That's what I understand.

17 (Marked Exhibit 8.)

18 BY MR. ANSTOETTER:

19 Q Handing you what's been marked as Gaddis
20 Deposition Exhibit No. 8. And I'll represent to
21 you that is a photograph using publicly
22 available boundary information.

23 Is that your general understanding of
24 your property boundary?

25 MS. ALEXANDER: Object to the form.

1 THE WITNESS: Yes, sir.

2 BY MR. ANSTOETTER:

3 Q Sir, can you show me on -- strike that.

4 Do you contend that any fly ash or
5 constituents of fly ash are present on
6 property -- on your property owned by you?

7 MS. ALEXANDER: I'm sorry, could you
8 repeat that question.

9 MR. ANSTOETTER: I can rephrase it.

10 Q Is it your contention, sir, that there is
11 fly ash present on property that you own in fee
12 interest and depicted on photograph 6.

13 MS. ALEXANDER: Objection.

14 THE WITNESS: What do you mean by
15 "in fee interest"?

16 BY MR. ANSTOETTER:

17 Q Well, property that you own.

18 A Oh, I see. Yes.

19 Q Okay. Can you show me on that photograph
20 where that material is located?

21 A No.

22 Q Okay. Why not?

23 A Generally with our proximity to the fossil
24 plant, there's always some amount of fly ash on
25 those properties.

1 Q And you base that belief or understanding
2 on what, sir?

3 A On the fact that there's a smokestack that
4 emits it.

5 Q So is it your contention, sir, that to the
6 extent that fly ash is present on your material,
7 that it came from the smokestack?

8 A Some of it.

9 Q Can you describe for me, sir, the quantity
10 or location of any fly ash that you contend is
11 on your property associated with the December
12 22, 2008, dike failure?

13 MS. ALEXANDER: Object to the form.

14 THE WITNESS: My wife observed an
15 unusually large residue amount late in December
16 after we returned from -- I did not see this
17 myself. She was down at the boathouse with the
18 dog and observed on the rocks of the shoreline
19 and all the piles around the boathouse.

20 BY MR. ANSTOETTER:

21 Q And what did she observe?

22 A This residue.

23 Q And that would be on -- I'm sorry, please
24 finish.

25 A That's it.

1 Q And that would be below the 750 contour
2 line; correct?

3 MS. ALEXANDER: Object to the form.

4 THE WITNESS: Probably. It would
5 have to be on the shoreline, yes, sir.

6 BY MR. ANSTOETTER:

7 Q So it would be below the 750 contour?

8 A Yes.

9 Q Sir, can you describe an area above the
10 750 contour that you contend has fly ash
11 associated with the December 22, 2008, dike
12 failure?

13 A No.

14 MS. ALEXANDER: Object to the form.

15 MR. ANSTOETTER: Did you get the
16 answer?

17 DEPOSITION OFFICER: Yes.

18 BY MR. ANSTOETTER:

19 Q Sir, I believe I know the answer to this.

20 But you haven't requested nor do you believe
21 there's any remediation of your property that is
22 needed; correct?

23 A Correct.

24 Q Sir, referring back to Gaddis Exhibit 2,
25 have you -- have you driven on Swan Pond Circle?

1 A Yes.

2 MS. ALEXANDER: Object to the form.

3 BY MR. ANSTOETTER:

4 Q Did you understand the question?

5 A Yes.

6 Q And have you driven on Emory River Road?

7 MS. ALEXANDER: Object to the form.

8 THE WITNESS: Which one is that.

9 BY MR. ANSTOETTER:

10 Q (Indicating.)

11 A Yes.

12 Q And have you crossed the bridge near Ladd
13 Landing where we are today?

14 A Yes.

15 Q And have you been to Emory Pointe?

16 A Yes.

17 Q Are there particular areas depicted on
18 Exhibit 2 where you like where you walk?

19 A No.

20 Q And you've had your boat, I believe you
21 said, on both the Clinch and the Emory; is that
22 correct?

23 A That's correct.

24 MS. ALEXANDER: Objection. I believe
25 he said --

1 THE WITNESS: The Clinch and the
2 Tennessee.

3 BY MR. ANSTOETTER:

4 Q The Clinch and the Tennessee, okay.

5 Sir, when was the last time you were
6 on Emory River Road?

7 A Months ago.

8 Q What was the purpose for being on Emory
9 River Road?

10 A Just cruising.

11 Q Is there a general area that you cruise?

12 A No, not really.

13 Q Is there a particular purpose for being on
14 Emory River Road other than just driving around?

15 A No.

16 Q And you would have been on Swan Pond Road
17 and Emory River Road since the dike failure; is
18 that correct?

19 A Yes.

20 Q And you would have been to Emory Pointe?

21 A Since the failure, yes.

22 Q Can you give me a date -- the last date
23 that you were on -- at Emory Pointe, Emory River
24 Road or Swan Pond Road?

25 A I cannot.

1 Q Is it within the last six months?

2 A Yes.

3 Q Do you believe that when you were on Emory
4 River Road or Swan Pond Road that you were
5 exposed?

6 MS. ALEXANDER: Object to the form.

7 THE WITNESS: Yes.

8 BY MR. ANSTOETTER:

9 Q Okay. And what do you base that on?

10 A Like I said before, its proximity.

11 Q So you believe that any time that you're
12 on Swan Pond Road, you're being exposed? Is
13 that your testimony?

14 A Yes.

15 Q Okay. And you have that same belief with
16 regard to your residence; is that correct?

17 A Yes.

18 Q Okay. At what point on this map do you
19 believe that you're not exposed?

20 MS. ALEXANDER: Object to the form.

21 THE WITNESS: I don't have any
22 expertise to make that statement. I don't know.

23 BY MR. ANSTOETTER:

24 Q Did you believe you were exposed driving
25 on Swan Pond Road before you went there?

1 A Yeah. Yes.

2 Q But you went there anyway?

3 A Yes.

4 Q Same with regard to driving on Emory River
5 Road or any other area in or around the Kingston
6 facility; correct?

7 A Around my own home, yes.

8 Q Would you agree, sir -- strike that.

9 When you were on Swan Pond Road, did
10 you observe the locations where the sludge from
11 the dike failure flowed or was dispersed?

12 A I saw some of it, yes.

13 Q And you would agree, sir, that that did
14 not disperse on the property uniformly through
15 the area?

16 MS. ALEXANDER: Object to the form.
17 Calls for a legal conclusion.

18 THE WITNESS: Yes.

19 BY MR. ANSTOETTER:

20 Q Sir, your belief that you were exposed
21 when you drove on Swan Pond Road six months ago,
22 what is the -- what is the source of the
23 exposure?

24 A Airborne.

25 Q From the stack emissions?

1 A And proximity to the -- to the spill that
2 was present there and the trains that were full
3 of it.

4 Q Now, when you drove those roads prior to
5 December 22, 2008, did you believe that you were
6 being exposed then?

7 A I didn't really think about it.

8 Q Pick a point over on Emory River Road
9 between -- well, just -- I'll just put an X on
10 the map -- on Emory River Road, do you believe
11 you were -- your experiences with regard to
12 claimed exposures have changed at that location
13 when you drove on that road between 2006 and the
14 present?

15 A I'm not quite sure I understand.

16 Q Okay. Do you believe that your claimed
17 exposure when you've driven the Emory River Road
18 both before December 22, 2008, and after, have
19 changed?

20 A Yes.

21 MS. ALEXANDER: Objection.

22 BY MR. ANSTOETTER:

23 Q And what is the source of what it is that
24 you believe is causing your claimed exposure?

25 A The existence of the sludge and the debris

1 of ash that is now -- has been present in the
2 river where it wasn't before.

3 Q So are you claiming that the material came
4 out of the river and became airborne?

5 A Yeah.

6 Q Okay. What is the basis for that
7 statement, sir?

8 A Because some of it was actually out of the
9 river and dried up in this area up on the bank.

10 Q What date was that?

11 A The date that it went up on the bank?

12 Q Yes.

13 A December 22.

14 Q Okay. And are you claiming --

15 A And it was still there during some of
16 those excursions.

17 Q Okay. If we took a lunch break and you
18 and I drove down Emory River Road and parked
19 where this X is, is it your belief and claim
20 that we're being exposed today?

21 MS. ALEXANDER: Objection.

22 THE WITNESS: As stated, yes.

23 BY MR. ANSTOETTER:

24 Q And the source of that exposure comes from
25 where today?

1 A Ash, airborne ash, from the proximity of
2 the plant, ash that may be -- may still be
3 existent on the shoreline.

4 Q Which shoreline?

5 A Where we're parking.

6 Q You don't know, sir, do you, what the
7 source of your claimed exposure is if we were to
8 go park there today, whether it's associated
9 from the dike failure or something else, do you?

10 MS. ALEXANDER: Object to the form.

11 THE WITNESS: No, sir. No, I don't
12 know. No.

13 BY MR. ANSTOETTER:

14 Q You just have a suspicion?

15 A Well, yes. If there's -- debris was once
16 there, it's probably -- probably some of it's
17 still there at that location as compared to
18 someplace else. The concentration of it must be
19 higher there.

20 Q What concentration? In the air?

21 A Yes.

22 Q As a result of stack emissions?

23 A There and -- that and the fact that there
24 once was ash there that had dried up and
25 probably some of it's still there.

1 Q But you don't know, do you?

2 A I don't know.

3 Q So you don't know if we were to drive to
4 that location today, whether we're being exposed
5 or not; correct?

6 MS. ALEXANDER: Object.

7 THE WITNESS: I don't know. Common
8 sense says we would be, but I don't know.

9 BY MR. ANSTOETTER:

10 Q I just want to make sure that I get an
11 answer to my question.

12 If we were to drive to this X today
13 at lunch, if we were to drive down there, you
14 don't know whether or not we're being exposed or
15 not, do you?

16 A We would be exposed.

17 Q And the basis for that statement is what?

18 A Proximity to the plant, which is emitting
19 ash, and the fact that there's probably ash
20 still on that shoreline.

21 Q Of those two potential --

22 A There's got to be ash on that shoreline.

23 Q Of those two potential sources, can you
24 apportion how much you believe --

25 A No, I cannot.

1 Q -- is associated with your claim that it's
2 from the stack or some other source?

3 A No, I can't.

4 Q Sir, you testified earlier that you
5 believe that you are a class representative for
6 purposes of medical monitoring; correct?

7 A Correct.

8 Q Okay. And do you believe that you're a
9 class representative for some other purpose?

10 A For the purposes as stated in the filing,
11 trespass, loss of value, loss of use.

12 Q What does being a class representative
13 mean to you?

14 A It means I have to be available for
15 situations such as this, provide information as
16 requested, basically support the litigation, and
17 represent the class that I'm supposed to be
18 representing.

19 Q Have you talked to any scientists or
20 experts about this litigation?

21 A No.

22 Q Do you know where any of the other class
23 representatives reside?

24 A I do not.

25 Q Do you know whether your experiences are

1 similar to theirs?

2 A Restate it, please.

3 Q Yeah. Do you know whether or not your
4 claimed experiences and property use are similar
5 or different than theirs?

6 MS. ALEXANDER: Object to the form.

7 THE WITNESS: I haven't talked to
8 them, I don't even know them. But I would have
9 to say that in some cases it's similar.

10 BY MR. ANSTOETTER:

11 Q In some cases it's different?

12 MS. ALEXANDER: Object to form.

13 THE WITNESS: In some cases it's
14 probably different. I don't know what they are,
15 but they're different.

16 BY MR. ANSTOETTER:

17 Q Sir, draw for me on Exhibit 2 your
18 understanding of the outline of the medical
19 monitoring class.

20 A I've seen the map for the Class 1.

21 Basically it -- well, do you want me to try to
22 draw it?

23 Q Uh-huh.

24 A It doesn't include me.

25 Q I'm sorry, what did you say?

1 A Class 1, as it stands right now, doesn't
2 include me.

3 Q Okay. Go ahead.

4 A That's what it says in here.

5 Q Okay.

6 A Basically up to river mile marker 10. I
7 don't know where that is on here. Roughly like
8 that.

9 Q The outline in blue, would you just draw
10 an arrow to that. And is that -- which class is
11 it that you've just drawn?

12 A Class 1.

13 Q Okay. Would you just write Class 1.

14 A (Witness complies.)

15 MS. ALEXANDER: I just want to stop
16 and say for the record that this map doesn't
17 include all of Class 1. So for the purpose for
18 what you're using it, I'm not sure. You might
19 want to show him the map and ask him if he
20 agrees that's what it is.

21 (Marked Exhibit 9.)

22 BY MR. ANSTOETTER:

23 Q I'll give you another map that includes a
24 broader area. Anyway, it's been marked as
25 Gaddis Deposition Exhibit 9.

1 Can you draw on that map what you
2 believe to be --

3 A This is the fossil plant right here.

4 Q -- the Class 1 boundary.

5 What is your understanding that Class
6 1 is intended to accomplish?

7 MS. ALEXANDER: Objection. Calls for
8 a legal conclusion.

9 BY MR. ANSTOETTER:

10 Q What's your understanding --

11 A Could you expound on that?

12 Q What's your understanding of the
13 geographical area of Class 1? What's the
14 significance of it?

15 A To me it's significant because that's in
16 very close proximity to the spill. That's where
17 the majority of the ash was deposited into the
18 river. That's where homes were demolished.
19 That's where the majority of ash resided shortly
20 after the spill. The more significant physical
21 damage was -- occurred there.

22 Q Now, is that the same -- to your
23 understanding, is that the same boundary as the
24 medical monitoring class?

25 MS. ALEXANDER: Objection. Calls for

1 a legal conclusion.

2 BY MR. ANSTOETTER:

3 Q Or do you know?

4 A I'm not sure.

5 Q Okay. Is it your understanding that you
6 live within Class 1, your property?

7 A I do not.

8 Q Okay. Sir, what is the purpose of the
9 resident class? And I'll just refer you to
10 paragraph 162 of the Complaint.

11 MS. ALEXANDER: Objection. Form.

12 THE WITNESS: Say the question again.

13 Purpose of --

14 BY MR. ANSTOETTER:

15 Q What's the purpose of the resident class
16 to your understanding?

17 A To my understanding, that's houses nearest
18 the spill, properties nearest the spill or where
19 the majority of the ash was deposited.

20 Q Sir, I'm handing you your Complaint and
21 directing your attention to paragraph 6 on page
22 38 of the Complaint.

23 Would you read -- would you read the
24 first -- just read that paragraph into the
25 record.

1 A

2 "Issue an Order
3 requiring Defendants to either
4 fund medical monitoring of
5 Plaintiffs Chesney Maines,
6 Cordell, and Simon and the
7 proposed Resident Class Members,
8 or to issue an Order
9 establishing and maintaining
10 jurisdiction over a medical
11 monitoring program, conducted
12 under this Court's supervision
13 or that of its designee, funded
14 by the Defendants, to identify
15 whether the proposed Resident
16 Class Members have suffered
17 physical and/or psychological
18 injury, harm, disease or
19 illness, and to monitor them for
20 development of such injuries in
21 the future as a result of their
22 exposure to the coal ash sludge
23 waste."

24 Q Okay. Now, resident class members, which
25 we just read in paragraph 163, includes those

1 within the geographical area of Class 1.

2 Do you agree with that?

3 A Yes.

4 Q Okay. And your property is not included
5 within that proposed class geographical area, is
6 it?

7 A No.

8 Q And your name is not listed as one of the
9 individuals for which a medical monitoring fund
10 is being requested, is it?

11 A No.

12 Q Do you still contend, sir, that you are a
13 class representative for medical monitoring
14 purposes?

15 A Yes.

16 Q And you base that on what?

17 A The fact that sludge or ash has been found
18 all the way down the river well past my house
19 and then all the way to the dam.

20 Q So do you believe individuals in property
21 Class 2 should receive medical monitoring?

22 MS. ALEXANDER: Objection. Calls if
23 legal conclusion.

24 THE WITNESS: Yes.

25 BY MR. ANSTOETTER:

1 Q And is it your understanding, sir, that
2 medical monitoring is being requested for
3 individuals in property Class 2?

4 MS. ALEXANDER: Objection. Calls for
5 a legal conclusion.

6 THE WITNESS: I'm not sure. This
7 states Class 1. I'm not sure.

8 BY MR. ANSTOETTER:

9 Q You're not in Class 1?

10 A I'm not.

11 Q But you believe you're a medical
12 monitoring representative; correct?

13 A Yes.

14 Q And you believe medical monitoring is
15 appropriate for you; correct?

16 A Correct.

17 Q Okay. And my question for you, sir, is
18 looking at Exhibit 2, where would you define the
19 boundaries of others similarly situated to you
20 who are not within Class 1 but are appropriate
21 candidates for medical monitoring?

22 MS. ALEXANDER: Objection.

23 THE WITNESS: Those on the
24 waterfront, near the waterfront.

25 BY MR. ANSTOETTER:

1 Q How far down the river?

2 A As far as down that debris and sludge has
3 been found, which is, I understand, the dam.

4 Q And when you say near the river, what are
5 the property boundaries associated with the
6 waterfront that constitute near the river?

7 A Those on the river, and I don't know how
8 far back would be appropriate for that.

9 Q But anyone near the river and downstream;
10 is that your testimony?

11 A Yes.

12 Q Is a candidate for medical monitoring?

13 A Correct.

14 Q And is included, in fact, in the medical
15 monitoring request in the Complaint; correct?

16 MS. ALEXANDER: Objection.

17 THE WITNESS: Yes.

18 MR. ANSTOETTER: Do you want to
19 break for lunch?

20 MS. ALEXANDER: Sure.

21 (Lunch recess.)

22 BY MR. ANSTOETTER:

23 Q Good afternoon, sir.

24 A Hello again.

25 (Marked Exhibit 10.)

1 BY MR. ANSTOETTER:

2 Q Sir, I'm handing you what's been marked as
3 Gaddis Deposition Exhibit No. 10, and I'll
4 represent to you that that is a color photograph
5 of the class 1 geographical boundary which is
6 attached to the Chesney Complaint which is
7 Exhibit 1.

8 Is that your understanding, sir?

9 A Yes.

10 Q And sir, could you identify on Exhibit 10
11 where your property's located?

12 A It's a little bit tougher. Right about
13 there.

14 Q That's about the middle of the page at the
15 very bottom below the word "document"; is that
16 correct?

17 A Yes.

18 Q Let me get you to circle that in black, if
19 you would. That black might show up a little
20 better.

21 And you would agree with me, sir,
22 that your property is not located within that
23 class geographical boundary; correct?

24 A Yes.

25 (Marked Exhibit 11.)

1 BY MR. ANSTOETTER:

2 Q Okay. Handing you what has been marked as
3 Gaddis Deposition No. 11. And I'll represent to
4 you that that's a map that my client and I
5 prepared, and we have taken the class
6 geographical boundary 1 from Exhibit 10 and
7 superimposed it on Exhibit 11 and then also
8 extended the depicted area to the south to
9 include more of the river.

10 Do you see that?

11 A Yes.

12 Q Okay. Does the outlined area that is
13 described as class geographical boundary 1 on
14 Exhibit 10, is that fairly and accurately
15 depicted on Exhibit 11?

16 A Yes.

17 Q Okay. Now, you had -- you had mentioned
18 before lunch that Class 2 -- property Class 2
19 extended down the river; correct?

20 A That's correct.

21 Q Okay. And did you state how far down the
22 river you believe Class 2 goes?

23 A To the dam.

24 Q Okay. And on Exhibit 11, there's a blue
25 line that's generally in the middle of the river

1 extending down into the dam; is that a fair and
2 accurate representation?

3 A Yes.

4 Q Okay. Now, can you, sir, draw the area
5 that you said is adjacent to the river that you
6 believe is included in Class 2?

7 A It's -- can I draw it? It's -- not really
8 because it goes in two lots. I don't know how
9 far that is. I mean, I can draw lines parallel
10 to that line if you want me to.

11 Q No. I'm just trying to get an
12 understanding of the geographical boundary as
13 you sit here today.

14 A And it also goes -- well, you've got the
15 blue line up there too.

16 Q As you sit here today, are you capable of
17 graphically outlining purported Class 2
18 geographical area on Exhibit 11?

19 A No. But I understand what it covers.

20 Q Okay. Describe for me in your terms what
21 you believe it covers?

22 A It covers the lots that are waterfront and
23 two lots away from the waterfront from that all
24 the way down to the dam and up the Clinch as
25 shown.

1 Q When you say waterfront, does that include
2 the parcel that is -- that is owned by TVA or is
3 it -- when you use the word "waterfront," is it
4 the first property adjacent to the parcel owned
5 by TVA?

6 A Yes, the first -- adjacent to the 750
7 line.

8 Q So it's the -- it's the property that's
9 adjacent to the shoreline strip owned by TVA;
10 correct?

11 A Yes, typically known as waterfront, yes.

12 Q Which is typically owned -- known as
13 waterfront? The property owned by TVA, or the
14 property immediately adjacent?

15 A Well, property that's not owned by TVA
16 immediately adjacent to it.

17 (Marked Exhibit 12.)

18 BY MR. ANSTOETTER:

19 Q Okay. Handing you what's been marked as
20 Gaddis Deposition Exhibit 12. I'll represent to
21 you, sir, that this is a map of the area near
22 your property with property boundaries on it
23 that are based upon publicly available property
24 boundaries.

25 Is that your understanding of that

1 map?

2 A Yes.

3 Q And there's a blue dot on one of the
4 properties.

5 Is that your property?

6 A Yes.

7 Q Could you just draw an arrow and draw --
8 indicate it as 1216 Cove Lane?

9 A (Witness complies.)

10 Q Now, do you have a copy of the Complaint
11 in front of you?

12 I'll call your attention to
13 paragraph 162 and specifically the property
14 Class 2 description.

15 A Uh-huh.

16 Q Using a red marker, would you draw an X in
17 this box here, in is this property location
18 here.

19 A Right here?

20 Q Yes.

21 A (Witness complies.)

22 Q And that's a lot near the vicinity of your
23 home; correct?

24 A Correct.

25 Q Okay. Now, describe for me, sir, which

1 two lots inland would be included adjacent to
2 that property.

3 MS. ALEXANDER: Objection. Calls for
4 a legal conclusion.

5 THE WITNESS: I am not sure I can.
6 There is no lot.

7 BY MR. ANSTOETTER:

8 Q Well, which -- would it include this large
9 parcel?

10 A No.

11 MS. ALEXANDER: Objection.

12 BY MR. ANSTOETTER:

13 Q And why not?

14 A Because there's -- a lot of that is not a
15 resident.

16 Q Could you just mark a number 1 in that
17 large parcel?

18 A (Witness complies.)

19 Q Okay. So it's your understanding that the
20 area described as No. 1 is not included in the
21 class action, property Class 2?

22 MS. ALEXANDER: Objection. Calls for
23 a legal conclusion.

24 THE WITNESS: From my viewpoint, and
25 I wasn't a part of establishing these classes,

1 since it's not a resident, I would answer yes.

2 BY MR. ANSTOETTER:

3 Q Yes, it's not included?

4 A Yes.

5 Q Sir, in the general area below where you
6 wrote 1216 Cove Lane, are there shops and other
7 commercial enterprises along that road?

8 A Shops and commercial enterprises, no.

9 Q Okay. What is along that road?

10 A Roane County Welcome Center. I'm not sure
11 how you designate that. I wouldn't designate
12 that as a shop or a commercial.

13 Q It's not a residential?

14 A I believe it is not residential.

15 Q So it's your understanding, sir, that the
16 lots to be included within the Class 2 setback
17 process are only those properties that are
18 residential?

19 A I really don't know. But it would be my
20 understanding, yes, that it would be.

21 Q Okay.

22 A My feeling that it would be, yeah.

23 Q Could you put -- put a number 2 in this
24 box?

25 A Right here?

1 Q Yes.

2 A Okay.

3 Q Okay.

4 A (Witness complies.)

5 Q Okay. Now -- and then put a number 3

6 in -- well, let me ask you this question.

7 Is this area here that I'm pointing

8 to on the map residential?

9 A I believe that it is.

10 Q Okay. Would you put a number 3 in this

11 box?

12 A Here?

13 Q Yes.

14 A It's backwards.

15 Q It's backwards, but that's okay. Okay.

16 Now, is box 3 within two lots in of

17 lot 2?

18 A As it relates to this claim?

19 Q As it relates to property Class 2.

20 MS. ALEXANDER: Objection. Calls for

21 a legal conclusion.

22 THE WITNESS: My feeling is that it

23 is not.

24 BY MR. ANSTOETTER:

25 Q And what is that based on, sir?

1 A Because it's not adjacent, the lot.

2 Q Okay. So your understanding, sir, is that
3 when you're counting the lots, there has to be
4 two residential lots that are adjacent to each
5 other?

6 A That's my understanding, from a proximity
7 viewpoint to the water. Can I clarify that a
8 little bit? That would not exclude a
9 residential street being between two lots, in my
10 mind.

11 Q So do you count the street or not?

12 A You used the word "adjacent."

13 Q No. You used the word "adjacent."

14 A Well, I would consider if there's only
15 separation of a street, residential street, that
16 those two lots would be considered adjacent as
17 far as this goes.

18 Q So just so I understand this, if there's
19 a -- put a number 4 in this box.

20 Are you saying, sir, that lot 4, for
21 purposes of Class 2, is adjacent to lot 2?

22 A Yes.

23 Q Even though it's divided by a street?

24 A Yes.

25 Q Okay. And is that understanding something

1 that you can point to the property damage Class
2 2 definition and indicate to me how it is that
3 you exclude intervening roads?

4 MS. ALEXANDER: Objection.

5 THE WITNESS: From being damaged?

6 BY MR. ANSTOETTER:

7 Q From being --

8 A Included in that resident class?

9 Q From being one of the two lots inland.

10 A I don't consider a residential area a lot.

11 Q Previously, though, you described a lot as
12 being adjacent to another lot and then you
13 exempted the -- that situation where there may
14 be a road that divided the two; correct?

15 A Correct.

16 Q And I'm simply asking you whether or not
17 you could point me to something in the property
18 damage Class 2 description that describes what
19 you just said.

20 MS. ALEXANDER: Objection.

21 THE WITNESS: No, I can't.

22 BY MR. ANSTOETTER:

23 Q I believe, sir, that you had indicated
24 that lot 3 would not be included in the property
25 damage class 2; correct?

1 A If I was defining it, yes, it would not
2 be.

3 Q Okay. Now, that is adjacent to lot 2 but
4 for the interchange; correct?

5 MS. ALEXANDER: Objection.

6 THE WITNESS: Yes. I would not
7 consider those adjacent. I would not use that
8 word to say those lots are adjacent at all.

9 BY MR. ANSTOETTER:

10 Q I'm just trying to understand the
11 difference between you associating lot 2 and 4
12 because it's divided by a road and lot 2 and 3
13 which is divided by an interchange.

14 A The proximity in my mind.

15 Q So 3 is not adjacent to 2, but 4 is
16 adjacent to 2?

17 A Correct.

18 Q How close in proximity does a lot that's
19 divided by a road have to be?

20 A I don't know.

21 Q Is this lot residential?

22 A I don't know.

23 Q Okay. If it were residential, would it be
24 within two lots of No. 2? And why don't you go
25 ahead and put a 5 in that box. Your testimony

1 is that lot 4 is within 1 of 2. Is lot 5 within
2 2 of 2?

3 A No.

4 Q Okay. And why is that?

5 A Proximity again.

6 Q Okay. So there's just a greater distance
7 with the interchange than with the residential
8 road?

9 A That's why I used the word "residential
10 road" when I said -- made that statement.

11 Q Sir, how do you -- you just described how
12 you generally account for intervening
13 residential roads. How do you account for coves
14 and tributaries, parks, government property,
15 anything nonresidential? Is it your -- strike
16 that.

17 Is it your testimony that an included
18 lot has to be a residential lot?

19 MS. ALEXANDER: Object to the form.

20 THE WITNESS: Are you asking me my
21 opinion?

22 BY MR. ANSTOETTER:

23 Q I'm asking you for your understanding as a
24 class representative.

25 A My understanding is it has to be

1 residential.

2 Q Do you know where Bettis Lane is?

3 A No, I don't.

4 Q Do you know who James Summers is?

5 A No, I don't.

6 Q Okay. I'll represent to you that James
7 Summers lives within close proximity to you at
8 131 Bettis Lane.

9 A Okay.

10 Q And I'll also represent to you that he
11 asserts a claim for personal injury and
12 emotional distress in an individual lawsuit.

13 Would you agree that his claims are
14 different than your claims in that he is
15 asserting emotional distress and personal
16 injury --

17 MS. ALEXANDER: Object to the form.

18 BY MR. ANSTOETTER:

19 Q -- and you're not?

20 A Well, yes, sir. I mean, that's different.

21 Q Do you know Sherry and Timothy Johnson?

22 A No, I don't.

23 Q Do you know where 499 Greenwood Street is?

24 A No.

25 Q Do you know where Greenwood Street is?

1 A No.

2 Q Sir, are you receiving any kind of premium
3 for being a class representative?

4 A Not to my knowledge.

5 Q And sir, notwithstanding the fact that
6 you're not within class geographical area 1,
7 it's your testimony that you are a medical
8 monitoring representative; correct?

9 A Yes.

10 Q Okay.

11 MS. ALEXANDER: Can we go off the
12 record for just a second?

13 MR. ANSTOETTER: Sure.

14 MS. ALEXANDER: Okay? Thank you.
15 (Off the record.)

16 MS. ALEXANDER: Go back on the
17 record.

18 BY MR. ANSTOETTER:

19 Q Sir, is it your understanding that the
20 residency class includes individuals who rented
21 but did not own?

22 A I don't know.

23 Q I assume your answer would be the same if
24 I asked you whether it included renters who
25 lived in the area after the release but have now

1 moved out?

2 A Yes.

3 Q Okay. Have you ever considered being a
4 plaintiff in an individual action as opposed to
5 being a class representative?

6 A No.

7 Q Do you believe that you have suffered
8 emotional distress but you simply are not
9 bringing it as part of this lawsuit?

10 MS. ALEXANDER: Objection.

11 THE WITNESS: At any level?

12 BY MR. ANSTOETTER:

13 Q At any level.

14 A Yes.

15 Q Do you believe you have a claim for
16 emotional distress that you can assert but you
17 are not asserting it as part of this lawsuit?

18 A I do not believe I have a legitimate claim
19 for emotional distress.

20 Q And why is that?

21 A Because what happened here obviously is
22 something that I'm not happy with, but it's like
23 when you wreck your car, that's emotionally
24 distressing, but it's just part of life, you can
25 let it get to you or you can do the best you can

1 and move on. That's why. I couldn't prove it,
2 so why deal with it.

3 Q Do you know of any individual who has
4 resolved any claim against TVA?

5 A No.

6 Q Are you aware that the Chesney class
7 action, which is the class action that was
8 marked as Exhibit 1 and one for which you're a
9 named class representative, is actually the
10 merger or consolidation of three former class
11 actions?

12 A Yes, I am.

13 Q And are you aware of -- or strike that.

14 Do you know of any former class
15 representatives in Long, Giltane or Blanchard
16 who are no longer a class representative in
17 Chesney?

18 A No.

19 Q Do you know why class representatives were
20 substituted or changed between Giltane, Long
21 and Blanchard and Chesney?

22 A No.

23 Q Do you know Larry Mays?

24 A Who?

25 Q Larry Mays?

1 A No.

2 Q Did you take any photographs of the -- of
3 the area between your property and the TVA
4 facility between December 22, 2008, and present?

5 A No.

6 Q After the -- you've already testified that
7 you were not in the area during the dike
8 failure; correct?

9 A Correct.

10 Q Okay. What did you do within the first
11 week after returning to the area following the
12 dike failure?

13 MS. ALEXANDER: Objection. Vague.

14 BY MR. ANSTOETTER:

15 Q Do you understand the question?

16 A Yeah, I understand the question.

17 Just pretty much lived life as
18 normal. We didn't go in the water. What had
19 happened really -- I'll give you a better
20 explanation.

21 My mom had just passed away, that's
22 why we weren't there. So I was kind of out of
23 it for a week or so after that. So I did
24 basically nothing as far as this goes.

25 We found out that it happened, and

1 we stayed out of the water and kept the dog out
2 of the water and --

3 Q And tried to live your life as you --

4 A Yeah, just moved on past that episode and
5 then picked it up from there.

6 Q Sir, you had mentioned earlier that you're
7 looking for compensation for the diminished
8 value of your property, and we'll talk about
9 that. You also talked a little bit about the
10 loss of use and enjoyment.

11 Other than -- describe for me, sir,
12 what it is that you believe has affected your
13 use and enjoyment of your property following the
14 December 22, 2008, failure.

15 A Well, we didn't want to swim anymore,
16 didn't care to -- wasn't doing much fishing, but
17 didn't care to even handle the fish that you
18 might catch off your dock even if you intended
19 to throw them right back.

20 The water skiing that I mentioned
21 earlier that we had done in the summer of 2008
22 was -- we didn't even invite those people back
23 or anybody else to go out on the boat that
24 involved them getting in the water, that sort of
25 thing as to our loss of use. And just kind of

1 stayed away from the -- from that area generally
2 speaking, especially early on.

3 Q People still water ski in the area, don't
4 they?

5 A Yes.

6 Q Okay. People still fish; correct?

7 A Yes.

8 Q You choose not to?

9 A Correct.

10 Q Other than choosing not to fish or invite
11 people to your property for water skiing, is
12 there any other loss of use and enjoyment that
13 you believe has affected you following this
14 event?

15 MS. ALEXANDER: Object to the form.
16 That mischaracterizes his testimony.

17 THE WITNESS: What did you say?

18 MS. ALEXANDER: Mischaracterizes
19 prior testimony.

20 BY MR. ANSTOETTER:

21 Q Do you understand my question? Do you
22 want me to rephrase it?

23 A No, I think I understand it. And what I
24 stated to you is basically what you use the
25 water that you're adjacent to for.

1 Q Uh-huh.

2 A Swimming, fishing and boating. That's
3 about all you get with water. And if you can't
4 do that, there's nothing left, in my mind.

5 Q But others are fishing?

6 A Yes.

7 Q Boating?

8 A But you asked -- I think you asked me if
9 there was anything else other than that that
10 I -- what we consider as loss of -- I think I
11 mentioned everything that you do on water.

12 Q So it's your use of the water and the
13 choices that you make associated with that water
14 use that you claim is the effect of your use and
15 enjoyment of your property?

16 A That's correct.

17 Q Is there anything else?

18 A No.

19 Q Okay. And what do you believe, sir, that
20 you should be compensated for your claimed
21 effect on the use and enjoyment of your property
22 based on what you just testified to?

23 MS. ALEXANDER: Objection. Calls for
24 a legal conclusion.

25 THE WITNESS: I don't know.

1 BY MR. ANSTOETTER:

2 Q Can't tell me what you believe that's
3 worth?

4 MS. ALEXANDER: Objection.

5 THE WITNESS: I could give you a
6 number, but nothing I --

7 BY MR. ANSTOETTER:

8 Q Give me a number.

9 MS. ALEXANDER: I'm going to object.
10 Form of the question.

11 THE WITNESS: \$100,000.

12 BY MR. ANSTOETTER:

13 Q You want \$100,000 for loss of usage of
14 your property?

15 A Yeah.

16 Q Do you believe that's what everybody who is
17 in Class 2 should be entitled to.

18 MS. ALEXANDER: Objection.

19 THE WITNESS: I don't know.

20 MS. ALEXANDER: Objection. Calls for
21 a legal conclusion.

22 THE WITNESS: I don't know.

23 BY MR. ANSTOETTER:

24 Q And that's because everybody's use and
25 enjoyment of their property is very unique to

1 them; correct?

2 MS. ALEXANDER: Objection.

3 BY MR. ANSTOETTER:

4 Q Correct?

5 A Yes.

6 Q Okay. Sir, did you do anything after you
7 went to college before you began employment with
8 Pratt Whitney?

9 A No.

10 Q Have you asked a doctor to perform any
11 screening tests on you?

12 A Excuse me?

13 Q Have you asked a doctor to perform any
14 screening tests on you?

15 A No.

16 Q Sir, when you bought your property, I
17 believe you said you used a buyer's agent or you
18 had an agent; is that correct?

19 A Correct.

20 Q Okay. And how much did you pay for your
21 property?

22 A 582.

23 Q Do you and your wife have a joint
24 ownership interest in that property?

25 A Yes.

1 Q And what was the appraised value of your
2 property at the time it was purchased?

3 A Right around that same number. I don't
4 recall the exact number. At the time it was
5 purchased, I don't know what the appraised value
6 was. It was sufficient to get the loan.

7 Q Did you provide a copy of that appraisal
8 to your counsel?

9 A The appraisal when I purchased the house?

10 Q Yes.

11 A No.

12 Q Do you still have it?

13 A I believe that I do.

14 Q Is there any reason you didn't provide it
15 to your counsel?

16 A I wasn't asked.

17 Q Who did the appraisal when you bought the
18 property?

19 A I don't recall.

20 Q Were there any other appraisals of your
21 property done other than the appraisal that was
22 done as part of your 2010 attempt to get your
23 property -- tax appraisal adjusted?

24 A No.

25 Q What was the appraised value in 2009?

1 MS. ALEXANDER: Objection.

2 THE WITNESS: 2009?

3 BY MR. ANSTOETTER:

4 Q Uh-huh.

5 MS. ALEXANDER: Are you talking about
6 the tax assessment value or --

7 BY MR. ANSTOETTER:

8 Q Yeah. Tax appraisal, right.

9 A I believe that was 523.

10 Q And that was based on an appraisal that
11 was done in July of 2004; correct?

12 MS. ALEXANDER: Objection. Calls for
13 speculation.

14 THE WITNESS: I'm not sure.

15 (Marked Exhibit 13.)

16 BY MR. ANSTOETTER:

17 Q Handing you what's been marked as Gaddis
18 Deposition Exhibit 13.

19 Can you identify that for the
20 record?

21 A That's me.

22 MS. ALEXANDER: Do you have an extra?
23 Thank you.

24 MS. LOWE: Did you say 13?

25 THE WITNESS: Got it. Right.

1 BY MR. ANSTOETTER:

2 Q I'm sorry?

3 A I got it right.

4 Q You got the 523 right? 523,600; is that
5 right?

6 A I missed the 600.

7 Q Do you know when the next previous
8 appraisal was done on your property prior to the
9 time that you moved in?

10 A No.

11 (Marked Exhibit 14.)

12 BY MR. ANSTOETTER:

13 Q Okay. Handing you what's been marked as
14 Gaddis Deposition Exhibit 14.

15 Can you identify that for the
16 record?

17 A Yes.

18 Q Can you tell me what it is?

19 A It is the original appraisal that was done
20 in -- I think it was May of this year.

21 Q What was the appraised value?

22 A 717.

23 Q \$717,900?

24 A Yes, correct.

25 Q And what were your property tax appraisals

1 in 2007 and 2008?

2 A I think it was the 523.

3 Q And did you pay those taxes --

4 A Yes.

5 Q -- on that value?

6 And did you pay the taxes on the 2009
7 appraised value?

8 A Correct.

9 Q Do you have -- do you still have copies of
10 your 2008 tax statements?

11 A The IRS statements?

12 Q Yes.

13 A Yes.

14 Q Did you produce those to your counsel?

15 A No.

16 Q Have you paid all of your property taxes
17 from 2006 forward?

18 A Yes.

19 Q Did somebody suggest to you that you
20 should appeal the 2010 appraisal?

21 A Nobody suggested it to me.

22 Q Why did you appeal it?

23 A Because I consider it ridiculous.

24 Q What was ridiculous about it?

25 A The increase.

1 Q Did you believe your property hadn't
2 increased at all?

3 MS. ALEXANDER: Objection. Calls for
4 speculation.

5 THE WITNESS: Correct.

6 BY MR. ANSTOETTER:

7 Q What -- what's the result of your appeal?

8 A It was reduced, taxes have been reduced or
9 my appraised value, I'm sorry, has been reduced.

10 Q And did you have any paperwork reflecting
11 that reduction?

12 A Yes, I do.

13 Q Okay. And have you provided that to your
14 lawyers?

15 A No.

16 Q Why not?

17 A I just got it.

18 Q When did you get it?

19 A A week ago, maybe two weeks ago.

20 Q Okay. What was it reduced to?

21 A 606,500. \$606,500.

22 Q Sir, what paperwork was included with the
23 submittal of your appeal?

24 A The appraisal item No. 3 -- oh, that's not
25 it. Whatever the item number is of the

1 appraisal conducted in 2010. Yeah, No. 3,
2 Exhibit No. 3.

3 Q Yeah. Here's a --

4 Actually, Elizabeth, can I have that
5 back? We've already marked it as Exhibit 3.

6 MS. ALEXANDER: Oh, okay.

7 MR. ANSTOETTER: I don't want to get
8 the record --

9 MS. ALEXANDER: I don't know if you
10 gave us a copy of that if you marked it Exhibit
11 3.

12 MR. ANSTOETTER: Actually, pull 16
13 back because the appraisal is included as
14 Exhibit 3.

15 MS. ALEXANDER: So is this Exhibit 3
16 or Exhibit 16?

17 MR. ANSTOETTER: That's exhibit --
18 we're going to withdraw Exhibit 16, and the
19 appraisal, I believe, is set forth in Exhibit 3
20 through Bates No. 17. Is that correct?

21 MS. ALEXANDER: Do you know what that
22 means? That's that number down at the bottom.

23 THE WITNESS: Yeah. Yes, correct.

24 MS. ALEXANDER: May I see that
25 because that's not in the copy -- I don't

1 have -- what you gave me includes through 17,
2 not through 19.

3 MR. ANSTOETTER: Right. That's why
4 I'm saying it's -- we can go off the record.

5 (Off the record.)

6 BY MR. ANSTOETTER:

7 Q When you submitted your reappraisal for
8 2010 tax valuation, what was submitted in
9 conjunction with the appraisal itself?

10 MS. ALEXANDER: You mean what did he
11 submit to the County? Could you rephrase that?

12 MR. ANSTOETTER: Yes. Strike that.

13 Q Who did you submit the reappraisal to?

14 A I actually submitted it to Teresa Kirkham.

15 Q Okay. And how did you do that?

16 A Sat across the desk from her.

17 Q Did you walk the appraisal in?

18 A Yes.

19 Q You had a conversation with her?

20 A Yes.

21 Q Okay. What did you talk about?

22 A I talked about my appraisal. I thought it
23 was too high, and I evidence to indicate that
24 from an independent appraiser. She said she
25 would look into it, and she said I could check

1 back later to see what had been done.

2 Q And when did you have that conversation?

3 A That would have been either late July or
4 early August.

5 Q What did you receive in response?

6 A I went back into the office several days
7 later just to follow up, and one of the other
8 ladies pulled up the results and told me what
9 they would be. And later I did receive the
10 official little blue card that you get.

11 Q Who told you what the results would be?

12 A One of the ladies in the tax collector's
13 office.

14 Q And documentationwise, again, did --

15 A There was none.

16 Q What did you receive?

17 A At that time?

18 Q At that time I'm assuming you just
19 received an oral statement?

20 A Correct. I received approximately a week
21 or two weeks ago, as I mentioned, the official
22 notification of a tax reappraisal.

23 Q And the number again was 6 --

24 A 606,500.

25 Q Other than the 2010 appraisal that you had

1 prepared for your property, what other
2 information did you provide the county
3 appraiser?

4 A Nothing.

5 Q Just walked in, handed her this document
6 which is a reappraisal, and she came back with a
7 number of 606,500?

8 A I walked in and talked to one of the
9 ladies in the office initially and got told it
10 would be revisited. After about two or three
11 other visits with the same response, I decided
12 that I needed to talk to Teresa. And so that's
13 what I did, and that got results.

14 Now, I had -- and that's when I gave
15 her the appraisal. I had the appraisal before
16 then and had actually submitted the pertinent
17 pages to this other lady, but I believe they
18 just went into a stack somewhere, and I was --
19 that was not satisfactory with me. So I kept
20 following up and finally I -- I didn't go in to
21 talk to Teresa, but she was available, so I
22 talked to her.

23 Q Did you know Teresa before?

24 A I knew what she looked like because I had
25 been in there on prior occasions, but I had

1 never spoken to her before.

2 Q And did you agree with the increased
3 appraised value from 523,600 to 606,500?

4 MS. ALEXANDER: Objection.

5 THE WITNESS: Did I agree with it?

6 BY MR. ANSTOETTER:

7 Q Yes.

8 A Personally I didn't agree with it.

9 Q And have you appealed the new number?

10 A No, I haven't.

11 Q Do you plan to do so?

12 A No. I was satisfied with the 606,500 from
13 the appealing of the tax assessment considering
14 the environment with taxes going up, which I
15 don't know why they did. I don't think it would
16 behooved me or I would have been unsuccessful,
17 especially after the significant decrease
18 already, to go before the Board of Equalization.
19 I accepted it, but I'm not real satisfied with
20 it. I'm not satisfied with it at all.

21 Q Did you agree with the appraised value set
22 forth in your appraisal report?

23 MS. ALEXANDER: Objection.

24 BY MR. ANSTOETTER:

25 Q Of --

1 A The 589?

2 Q Yes, sir.

3 A No, I think that should have shown a
4 reduction.

5 Q Did you attempt to get another appraisal?

6 A No, I did not.

7 Q Sir, look at -- on your appraisal report,
8 the 2010 appraisal report that was done for you,
9 it's on page 1 of 2, and it carries Bates
10 No. 003.

11 Do you see that?

12 A Yes.

13 Q Would you read the last three sentences?

14 A I need my glasses, and I don't have them.
15 That is very fine print.

16 That actually does help. Well, you
17 and I have different problems. Starting with
18 "The dwelling"?

19 Q Starting with "No adverse environmental
20 condition."

21 MS. ALEXANDER: It's highlighted
22 there.

23 THE WITNESS:

24 "No adverse
25 environmental conditions were

1 visible or apparent at the time
2 of inspection. However, the
3 appraiser is not an
4 environmental expert. A
5 separate environmental audit
6 would be necessary to verify any
7 adverse -- to verify any adverse
8 conditions exist."

9 BY MR. ANSTOETTER:

10 Q Okay. Did you have an environmental audit
11 done?

12 A I did not.

13 Q Did you challenge the statement that no
14 environmental conditions were visible or
15 apparent?

16 A No, I did not.

17 Q Did you argue to the appraisal office that
18 there was an adverse environmental condition on
19 your property?

20 A Early on I mentioned the spill in that
21 office, and that was going to get you nowhere.

22 Q So the answer to -- my question is did
23 you -- did you argue that there was an
24 environmental -- adverse environmental condition
25 on your property?

1 A No.

2 Q Okay. When you received the reappraised
3 number, what documentation did you receive?

4 A Again, it was the 5-by-7 reassessment
5 notice that everybody in Roane County gets from
6 the tax assessor's office. The official
7 document doesn't look like what your exhibit
8 looked like. It's a small card saying your
9 property has been reassessed.

10 Q That's because we don't have it.

11 A That's right. You don't.

12 Q Did any of your neighbors appeal their
13 taxes or their tax appraisal?

14 MS. ALEXANDER: Objection. Calls for
15 speculation.

16 THE WITNESS: I do not know.

17 BY MR. ANSTOETTER:

18 Q Sir, have you attempted to try to sell
19 your home?

20 A No.

21 Q How much would you sell it for?

22 MS. ALEXANDER: Objection.

23 THE WITNESS: I don't know. Without
24 some advice from people, I don't know.

25 BY MR. ANSTOETTER:

1 Q You don't plan on challenging the
2 reappraised 2010 valuation; correct?

3 A I do not.

4 Q And you haven't attempted to get an
5 appraisal done other than the 2010 appraisal for
6 589,000; correct?

7 A No, I don't.

8 Q What do you believe your home is worth?

9 MS. ALEXANDER: Objection.

10 THE WITNESS: I don't know.

11 Certainly not 717,000.

12 BY MR. ANSTOETTER:

13 Q Is it worth 589,000?

14 A I don't know.

15 Q Would you sell it to me for 589,000?

16 A I would seriously consider it.

17 Q So you believe it's worth at least
18 589,000?

19 MS. ALEXANDER: Objection. That
20 mischaracterizes his testimony.

21 THE WITNESS: No, I do not,
22 especially in light of what's -- this.

23 BY MR. ANSTOETTER:

24 Q Well, what do you believe --

25 A I wouldn't pay you \$589,000 for it.

1 Q What do you believe it is worth?

2 MS. ALEXANDER: Objection.

3 THE WITNESS: I don't know.

4 Hopefully that's going to come out of the
5 research in association with litigation.

6 BY MR. ANSTOETTER:

7 Q Do you have a mortgage on your property?

8 A No.

9 Q When did you pay off your original
10 mortgage?

11 A We've -- it would have been in early '08 I
12 paid the balance. I think it was February or
13 March of '08 I paid it off.

14 Q Did you provide your paperwork related to
15 your mortgage to your lawyers?

16 A No.

17 Q Did you use the proceeds from the sale of
18 your home in Florida to pay off your mortgage?

19 A Paid it down, yes.

20 Q I thought you said you paid it off.

21 A I didn't use those proceeds to make the
22 final payment, but that certainly was a
23 contributor to the total payout, if that's what
24 you were looking for.

25 Q Sir, do you have a homeowner's insurance

1 policy?

2 A Yes.

3 Q And who is that with?

4 A State -- Farm Bureau.

5 Q Can you go to Bates No. 21, part of
6 Exhibit 3.

7 MS. ALEXANDER: Would you hand me
8 that stapler?

9 BY MR. ANSTOETTER:

10 Q Is that your policy -- a copy of your
11 policy beginning on Bates No. --

12 A Yes.

13 Q And was the value of the policy for the
14 dwelling \$390,000?

15 A Yes.

16 Q Plus \$58,500 for other structures?

17 A Correct.

18 Q What are the other structures?

19 A That's the boathouse.

20 Q Have you ever had an insurance company
21 tell you that it would not insure your property?

22 A No.

23 Q Were the representations that you made on
24 your insurance application accurate when you
25 made them?

1 A Yes.

2 Q And go ahead and turn to Bates No. 23.

3 And this application was made what date?

4 A Looks like 6/10/09.

5 Q That's your signature?

6 A Correct.

7 Q Okay. And the third line reads,

8 "Is there any unrepaired damage to any property

9 being insured by this application?"

10 And what did you answer?

11 A "No."

12 Q That was a true and correct statement;

13 correct?

14 A Correct.

15 MS. ALEXANDER: Objection to the

16 form.

17 BY MR. ANSTOETTER:

18 Q That was after the December 22 dike

19 failure; correct?

20 A Correct.

21 Q Have you ever met with a Realtor to assess

22 the value of your property?

23 A A Realtor?

24 Q A Realtor.

25 A No.

1 Q You don't intend to move; is that correct?

2 A That's correct.

3 Q Sir, are you aware of the public health
4 assessment report?

5 A No.

6 MS. ALEXANDER: Object to the form.

7 BY MR. ANSTOETTER:

8 Q You haven't read anything with regard to
9 the ATSDR report?

10 A No.

11 Q Do you know that the ATSDR concluded that
12 material from the dike failure is not harmful to
13 human health?

14 A No.

15 Q Do you have any reason to disagree with
16 such a statement?

17 MS. ALEXANDER: Objection.

18 THE WITNESS: I have no factual
19 information to make me agree or disagree with
20 that.

21 BY MR. ANSTOETTER:

22 Q Well, do you have any personal belief that
23 disagrees with such a statement?

24 A I don't know. I -- I would need more
25 data. Who funded that study?

1 Q You need more data -- strike that.

2 I believe you just testified a couple
3 of answers ago that you have no factual basis to
4 disagree with the statement; correct?

5 A That's correct.

6 Q When you say you need more data, does that
7 mean you need more data to be able to agree with
8 the statement?

9 A Yes. I need to understand where the study
10 came from.

11 Q Sir, you don't believe you're at a
12 substantial and increased risk of developing a
13 serious illness, injury, or disease as a result
14 of living around Kingston?

15 MS. ALEXANDER: Objection.

16 THE WITNESS: I don't know how to
17 answer that one.

18 BY MR. ANSTOETTER:

19 Q Do you believe you are at a substantial
20 and increased risk of developing a serious
21 illness or disease?

22 A I don't know.

23 Q Do you have a concern of being at an
24 increased risk of -- substantial increased risk
25 of developing a serious disease?

1 A Concern, yes.

2 Q Would you agree that such a concern would
3 vary from person to person?

4 A Yes.

5 MS. ALEXANDER: Objection.

6 BY MR. ANSTOETTER:

7 Q Have you ever been to the TVA plant or the
8 TVA property?

9 A I've driven on Swan Pond Road. Is that
10 their property? As I stated before, I'm not
11 sure. If Swan Pond Road is their property, the
12 answer is yes.

13 Q Have you ever talked to EPA or any
14 governmental official with regard to the TVA
15 operations over the December 22, 2008, dike
16 failure?

17 A No.

18 Q Other than attending a meeting with Erin
19 Brockovich and the meetings in this office, did
20 you attend any other meetings involving TVA?

21 A No.

22 Q Have you made any complaints directly to
23 TVA involving its operations?

24 A No.

25 Q Have you complained to anyone about TVA?

1 MS. ALEXANDER: Objection. That's
2 vague.

3 THE WITNESS: Yeah. Yes.

4 BY MR. ANSTOETTER:

5 Q Who?

6 A My neighbor.

7 Q What did you --

8 A Upset with the spill. That sort of thing,
9 of course.

10 Q Has he -- has he considered bringing a
11 lawsuit?

12 MS. ALEXANDER: Objection.

13 THE WITNESS: Yes.

14 BY MR. ANSTOETTER:

15 Q Do you know whether he has retained
16 counsel?

17 A Yes.

18 Q Is it the Lief, Cabraser law firm?

19 A Yes.

20 Q Are you a member of the Citizens Advisory
21 Group?

22 A No.

23 Q At any time prior to the December 22 dike
24 failure, did you have a medical examination to
25 determine whether or not you had ever been

1 previously exposed to a hazardous substance?

2 A No.

3 Q Do you have any -- strike that.

4 We talked this morning about your
5 belief that you're a medical monitoring
6 representative.

7 Do you recall that?

8 A Yes.

9 Q Okay. And I want to go back to that and
10 ask you whether you're claiming that you have
11 been exposed to a hazardous substance or any
12 material in harmful quantities as a result of
13 the TVA dike failure.

14 MS. ALEXANDER: Objection.

15 THE WITNESS: I don't know if I have
16 or not.

17 BY MR. ANSTOETTER:

18 Q This morning you had talked about your
19 concern about possible exposure through air
20 transport.

21 Do you recall that?

22 A Correct, yes.

23 Q And were you confused at all about that
24 questioning this morning?

25 MS. ALEXANDER: Objection.

1 THE WITNESS: I don't think so.

2 BY MR. ANSTOETTER:

3 Q Okay. Do you believe that you have been
4 exposed to any compound, contaminant or
5 constituent in harmful concentrations or
6 quantities at your property resulting from the
7 December 22, 2008, dike failure?

8 A I don't know.

9 Q So you don't know one way or another?

10 A Excuse me?

11 Q You don't know one way or another?

12 A I don't. I don't know what quantities
13 went up my nose or got in my throat.

14 Q Or whether they did at all?

15 A Correct.

16 Q Or whether or not anything you claim that
17 you have experienced on your property as a
18 result of the dike failure or something else;
19 correct?

20 A Restate that.

21 Q That was a poor question. I'll object to
22 my own question.

23 You don't know whether you have been
24 exposed to any fly ash or any constituent on
25 your property as a result of the dike failure;

1 correct?

2 MS. ALEXANDER: Objection.

3 THE WITNESS: Correct.

4 BY MR. ANSTOETTER:

5 Q And you don't know whether or not you've
6 been exposed to any harmful constituent or
7 compound as a result of the December 22, 2008,
8 dike failure at any location in or around your
9 home; correct?

10 A I do not know that for a fact, correct.

11 Q Well, you're not making that claim, or you
12 don't have at that belief; is that correct?

13 MS. ALEXANDER: Objection.

14 THE WITNESS: I have a belief that I
15 may have been, that it was present.

16 BY MR. ANSTOETTER:

17 Q You have a belief --

18 A Whether I actually aspirated it, whether
19 it was there at the time, the day or whatever, I
20 don't know that. I have no medical proof that
21 it has. I have no symptoms that it has yet. I
22 just know it was there.

23 Q You know what was --

24 A The potential of it to be there existed.

25 Q The potential for what?

1 A For airborne contaminants.

2 Q Okay. The potential for airborne
3 contaminants while you were at what location?

4 A Home, my home.

5 Q But --

6 A Or in the vicinity of my home.

7 Q Okay. But I think you just testified --
8 and I'm not trying to re-cover this ground, I
9 just want to make sure the record's clear.

10 You don't have any basis to believe
11 that you were exposed to a contaminant,
12 constituent or compound associated with the
13 December 22, 2008, dike failure, at your home?

14 MS. ALEXANDER: Objection.

15 THE WITNESS: I have basis to believe
16 that it was likely that I probably was because
17 of the extent of the spill and evidence -- known
18 evidence of airborne contaminants in the area,
19 it was purported in the water, et cetera. The
20 likelihood of my being exposed was there, yeah.
21 Do I know? Do I have proof? Is there some
22 result that I was exposed? I don't have that.

23 Q Well, you don't have -- if you can point
24 me to one piece of information that suggests
25 that you were exposed --

1 MS. ALEXANDER: Objection.

2 BY MR. ANSTOETTER:

3 Q -- at your home as a result of the dike
4 failure.

5 A Reports of contamination in the air is the
6 only thing I can report to.

7 Q What reports?

8 A I can't name the reports, but there was
9 airborne studies done.

10 Q By whom?

11 A I don't know who the agency was. You tell
12 me.

13 Q All I can tell you is what I just read to
14 you out of the ATSDR public health assessment.

15 A And that was conducted when? When was
16 that conducted?

17 Q It was conducted after December 22, 2008.

18 A How long after?

19 MS. ALEXANDER: Can we get back to
20 having questions and answers.

21 BY MR. ANSTOETTER:

22 Q Yeah, I'd be happy to get you a copy of it,
23 sir. My question to you, sir, is you referenced
24 some report, and I want to know what report it
25 is that you believe you're relying upon that

1 says that you were at --

2 A I can't quote what it was. There's
3 newspaper reports.

4 Q Oh, newspaper reports?

5 A Yeah. I can't give you the name of the
6 report, who conducted it so on, so forth.

7 Q Is there a scientific report that you're
8 aware of that suggests --

9 A Only what the newspaper suggested.

10 Q Okay. So when you talk about a report,
11 you're talking about newspaper reporter?

12 A A newspaper report made by a reporter, I
13 guess, yes.

14 Q Sir, are you seeking medical monitoring in
15 this case?

16 A Am I personally?

17 Q Yes.

18 A No.

19 Q And why is that?

20 MS. ALEXANDER: Objection. Calls for
21 a legal conclusion.

22 THE WITNESS: I'm more concerned with
23 the two items -- diminution of value and loss of
24 use.

25 BY MR. ANSTOETTER:

1 Q So are you or are you not a medical
2 monitoring representative in this litigation?

3 A I guess I am not from my zone.

4 Q Prior to lunch you believed that you were.
5 Following lunch you believe that you're not?

6 A That's correct.

7 Q Sir, can you refer me to any document that
8 suggests that you were exposed on your property
9 to any chemical, compound or constituent as a
10 result of the 2008 dike failure?

11 A No.

12 Q Okay. And you hadn't taken any tests to
13 determine whether or not you've been exposed;
14 correct?

15 A Correct.

16 Q When you mow your grass, do you use a
17 mask?

18 A No.

19 Q Why not?

20 A Why not?

21 Q Uh-huh.

22 A I never have. It's not -- I put a hat on.
23 That's it.

24 Q Not something you're concerned about?

25 A No.

1 Q When your wife runs her dog in the front
2 yard three times a day, have you ever suggested
3 that she wear a mask?

4 A No.

5 Q Have you ever suggested that she take any
6 precautionary measurements?

7 MS. ALEXANDER: Object to the form.

8 THE WITNESS: No.

9 BY MR. ANSTOETTER:

10 Q Have you ever encouraged her not to do so?

11 A No. Not to wear a mask?

12 Q No. Not to run your dog three times a day
13 in your front yard?

14 A No.

15 Q Have you ever told your family or your
16 friends not to come over to your home?

17 A I made them aware of where we live. I
18 didn't say don't come.

19 Q And they still come?

20 A To visit.

21 Q Do you receive annual medical checkups?

22 A Yes.

23 Q How frequently do you go?

24 A It's usually in the middle of the summer
25 every year.

1 Q And did you go this year?

2 A Yes.

3 Q Did your doctor express any concerns to
4 you?

5 MS. ALEXANDER: Objection.

6 THE WITNESS: Concerns associated
7 with the spill or concerns --

8 BY MR. ANSTOETTER:

9 Q Yes.

10 A -- concerns in general?

11 Q Concerns associated with the spill.

12 A He said, I wouldn't go in that water. But
13 no, he didn't find anything on my body that
14 would give him any rise for concern over the
15 spill.

16 Q He didn't express any health concern or
17 medical concern for you; correct?

18 A That's correct. He suggested we don't go
19 into the water, but that was just a knee jerk
20 reaction.

21 Q Who is your doctor?

22 A I forgot the name. Wilson, Robert Wilson
23 out of Harriman.

24 MS. ALEXANDER: I'm sorry, what was
25 his first name?

1 THE WITNESS: Robert.

2 MR. ANSTOETTER: Why don't we take a
3 short break.

4 (Recess.)

5 BY MR. ANSTOETTER:

6 Q Sir, I'm handing you -- the documents --
7 the only documents we received from your counsel
8 are marked as William Gaddis 1 through 24.

9 On the last page as part of your
10 insurance application there's a notation, No. 4,
11 "Cancelled by State Farm after water claim."

12 What does that mean?

13 A There's a story that goes behind that.

14 South Florida, after 2004, 2005, we
15 had big hurricane years. Two of them came
16 directly through Palm Beach County. The
17 insurance companies were looking for any excuse
18 to cancel people. And my claim was one of them.
19 It was a significant claim. It was the only
20 claim I ever had with them. And they did drop
21 me.

22 Q You made a water claim?

23 A I made a water claim.

24 Q And did they cover that claim?

25 A They did. They did a good job of it. But

1 they took it as an opportunity to drop me. A
2 lot of people in Florida now have to go on state
3 subsidized homeowner's insurance because of
4 hurricanes. You probably haven't heard of that.
5 But it's a bad situation down there.

6 Q What type of water damage did you suffer?

7 A Roof leak.

8 Q And when was that?

9 A That was in the '02 time frame.

10 Q Was it personal property damage?

11 A No. Just the house itself, water got down
12 into the walls and mold, et cetera, and they
13 just kept chasing it, and the price kept getting
14 higher and higher and --

15 Q What was the ultimate outcome of that?

16 A They made all the repairs and sent me a
17 cancellation notice when we came due, when the
18 policy period was over.

19 Q And is that the house that you sold?

20 A Yes.

21 Q Okay. Did you sell that house at a loss?

22 A No. No. I was on the downside of the
23 real estate boom down there, but I still made
24 money on it compared to what I paid for it
25 because I owned it for, like I told you earlier,

1 28, 30 years.

2 Q Did you own any other property in Florida
3 other than that home?

4 A Years before that I owned a piece of -- a
5 five-acre lot out west of town that I just had
6 designs of putting a house on and I didn't, so
7 we just sold it.

8 Q How much did you sell that for?

9 A 30-ish, as I recall. 30,000.

10 Q Okay. You had mentioned at the beginning
11 of the deposition that samples were collected
12 from I believe you said your mailbox, your patio
13 table and your boat dock; correct?

14 A Those are the ones that I know of.

15 Q And could you show me, is your mailbox
16 depicted on either Exhibit 5 or --

17 A I don't think it's depicted on anything
18 here.

19 Q Did they --

20 A Is there -- I can -- the actual mailbox
21 location -- this is my property. There's three
22 mailboxes for this lot, this lot, and this lot
23 located right there. The mailbox is not even on
24 my property. But it's within 15 feet of it, 20
25 feet.

1 Q And where on the mailbox did they take the
2 sample?

3 A I don't know. I wasn't -- actually, I saw
4 him, I wasn't out there with him. We're talking
5 about 75, 100 feet away.

6 Q Was it inside the mailbox or outside the
7 mailbox, on top of the mailbox? Don't know?

8 A I don't know.

9 Q Okay. And the patio table, is that
10 depicted in Exhibit 6?

11 A See the umbrella?

12 Q Uh-huh.

13 A It's right underneath that. It's like a
14 three-by-five table with tiles on the top of it.
15 And they dusted the tiles.

16 Q They just took a little paintbrush?

17 A A little paintbrush.

18 Q Okay. And then the boat dock?

19 A I don't know where they took that from.

20 Q Okay.

21 A I took them out there. They were getting
22 situated, and by the time they got situated,
23 I -- I was doing something I forgot, and I said,
24 Can I leave? They said yes, and I left.

25 Q Do you take your patio furniture in during

1 the wintertime?

2 A We take the umbrella down. But no, the
3 table which they dusted does not come in.

4 Q Has that table -- has that table ever been
5 cleaned?

6 A Yes, and rained on.

7 Q When was the last time it had been
8 cleaned?

9 A Wow. I don't know. Probably before we
10 had company the last time. Maybe a week ago.
11 Probably -- I don't think it was very clean when
12 they came over because they were getting quite a
13 bit of stuff off of it, I saw. And -- but
14 before -- before that I really don't know.

15 Q But it would have been cleaned at some
16 point in --

17 A Yes.

18 Q You would have wiped it down after you --
19 or before you entertained guests there?

20 A Yes. It does tend to get dusty out there,
21 so when we have company, we'll go wipe it down.

22 Q And it would have been wiped down at least
23 a week or so -- or within a week of them taking
24 a sample?

25 A Probably.

1 Q And to the extent that there was dust on
2 that table, I believe you testified earlier that
3 you're not sure where it came from; is that
4 correct?

5 A The dust from the table?

6 Q Yes.

7 A That came from the -- I believe it's from
8 the surface, the tiles on the -- the top surface
9 of it.

10 Q Right. But the source of that dust.

11 A Oh, oh.

12 Q You're not sure?

13 A No. It's just wherever dust comes from,
14 dirt and debris, maybe some ash. I don't --
15 like I said, I don't know what the findings were
16 on any -- related to any particular sampling,
17 where the sample came from.

18 Q But that -- since you had cleaned that
19 table within a week prior to it being sampled,
20 you're not suggesting that to the extent that
21 there was dust there, that it was associated
22 with the December 22 dike failure; correct?

23 MS. ALEXANDER: Objection. Calls for
24 speculation.

25 THE WITNESS: I don't know that. I'm

1 not suggesting it. But I don't know.

2 BY MR. ANSTOETTER:

3 Q Well, do you contend that the presence of
4 any material on that table was associated with
5 the dike failure?

6 MS. ALEXANDER: Objection.

7 THE WITNESS: I don't know.

8 BY MR. ANSTOETTER:

9 Q Sir, how would you describe the
10 remediation effort?

11 A TVA's remediation effort?

12 Q Yes.

13 A It seems like, to me, they've been pretty
14 diligent about it. A lot of effort, seems like,
15 has been put into cleaning it up.

16 Q The situation has significantly improved
17 since December --

18 A Well, based on the reports, it is.
19 Hopefully they'll stick with it. I'm not
20 disappointed in their remediation effort. It
21 seemed they have owned up to it and are working
22 toward fixing it as best they can. I hope they
23 continue that.

24 Q Sir, we've served several document
25 requests on your counsel. Has your counsel

1 provided you with document requests that you
2 reviewed that requested particular information?

3 A Yes.

4 Q Okay. And I'm just reading one, for
5 example, that says --

6 MS. ALEXANDER: Do you have a second
7 copy of that?

8 BY MR. ANSTOETTER:

9 Q Plaintiff's responses to Defendant TVA's
10 First Request for Production of Documents to
11 Plaintiffs George Chesney. And I'll just show
12 you my copy.

13 Have you seen that document before?

14 A I believe so. Is this the one I looked at
15 yesterday. This is for George Chesney? Oh,
16 this is for that?

17 Q Right.

18 A Yes, I saw this.

19 Q Was yesterday the first time?

20 A Yes.

21 Q All right. And there's a request here
22 that says,

23 "All surveys, maps,
24 photographs, images, or other
25 graphic depictions of the

1 property that is the subject of
2 your claims."

3 You have photographs in your
4 possession that were not provided to your
5 counsel that depict your property; correct?

6 A Probably. We've taken some photographs
7 around -- like I mentioned earlier, not
8 particularly of the property, but the property
9 would probably be in the background in some of
10 them.

11 MS. ALEXANDER: You're not suggesting
12 that any family photographs where there's a
13 little bit of the house in the background would
14 be responsive to your document requests, are
15 you?

16 MR. ANSTOETTER: Yes.

17 MS. ALEXANDER: Okay. We can talk
18 about that.

19 MR. ANSTOETTER: There's a claim of
20 loss of use and enjoyment.

21 (Marked Exhibit 15.)

22 BY MR. ANSTOETTER:

23 Q I'm handing you what's been marked as
24 Gaddis Deposition Exhibit 15.

25 Can you identify that for the

1 record?

2 A Warranty deed.

3 Q And is that the warranty deed for your
4 property?

5 A Yes, sir.

6 Q Sir, I don't believe I have any further
7 questions. Thank you.

8 A Okay.

9 E X A M I N A T I O N

10 BY MS. MORETZ:

11 Q Mr. Gaddis, my name is Denise Moretz, and I
12 just have very few questions for you.

13 A Okay.

14 Q I represent a company by the name of
15 WorleyParsons Corporation. Is that a name that
16 you recognize other than having seen it in the
17 consolidated complaint?

18 A No.

19 Q Okay. Did you know anything about
20 WorleyParsons before you reviewed the
21 consolidated complaint that was filed in this
22 case?

23 A No.

24 Q I trust that you've never had any
25 conversations with any employee from

1 WorleyParsons?

2 A Not that I know of.

3 Q Okay. Do you have any specific
4 information or knowledge as to why WorleyParsons
5 has been sued in this case?

6 A Other than what's in the Complaint.

7 Q Okay. But as far as you having any
8 personal knowledge, other than what you've read,
9 you don't have any such knowledge?

10 A That's correct.

11 Q Okay. That's all the questions I have,
12 sir. Thank you.

13 E X A M I N A T I O N

14 BY MS. LOWE:

15 Q Mr. Gaddis, my name is Ashley Lowe, and I
16 represent GeoSyntec Consultants, another
17 defendant in this case.

18 Have you ever heard of GeoSyntec
19 Consultants before reading the consolidated
20 class action complaint?

21 A I have not, no.

22 Q To your knowledge, have you ever spoken
23 with anyone who works for or represents
24 GeoSyntec Consultants, Inc.?

25 A No.

1 Q Other than what you've read in the
2 consolidated class action complaint, do you have
3 any knowledge regarding why GeoSyntec
4 Consultants has been sued in this case?

5 A Nothing other than this, no.

6 Q Okay. Just a couple of follow-up
7 questions.

8 I think Mr. Anstoetter asked you
9 earlier if you had -- if you were a member of
10 the community -- the CAG. You said "no"; is
11 that correct?

12 A That's correct.

13 Q Have you attended any of the meetings of
14 that group?

15 A No.

16 Q Do you know anyone who is a member of that
17 group?

18 A Not that I'm aware of.

19 Q You talked a few minutes ago about an
20 insurance claim you made on your property in
21 South Florida.

22 Have you ever made any insurance
23 claims for any reason related to the property at
24 1216 Cove Lane?

25 A No.

1 Q Since moving to Kingston in 2007, have you
2 been a member of any organizations or groups in
3 the area?

4 A No, other than church, no.

5 Q Okay. Do you know anyone that works at
6 the Kingston facility?

7 A I'm trying to -- I'm not sure. There was
8 a lady that I used to know at the church I used
9 to attend, I think she may work at the Kingston
10 facility, but I'm not sure.

11 Q Have you ever talked with her about the
12 spill?

13 A No, I don't -- try not to talk to people
14 that aren't associated with it, no.

15 Q To your knowledge, have you talked with
16 anyone who works for TVA about the spill?

17 A No. Well, I take that back. There was
18 a -- the guy that came over to pick up that dead
19 racoon, there was some sort of conversation.

20 Q Okay. Tell me about that. How did -- how
21 did that come about?

22 A My wife saw it shortly after the spill,
23 the dog's curious and would go down there and
24 smell it. So she called -- I think she actually
25 called the police, and the police referred her

1 to TVA. And they were prompt, they came out and
2 bagged it up and took it away.

3 Q Do you know the names of any of the people
4 that your wife spoke with?

5 A I have no idea.

6 Q Do you know approximately when? You said
7 close in time to the spill. Do you know
8 approximately when it occurred?

9 A I would say January of '09.

10 Q And where was this racoon that you saw?
11 Was it on your property?

12 A Yes. It was down there by the lake on
13 that -- I don't know if you've seen the
14 picture -- riprap rock, I call it, that gray
15 rock. I don't know how it got there, but --

16 Q Was it actually on the riprap or near it?

17 A I think it had -- probably -- my guess is
18 it floated up in the water and just ended up on
19 my property.

20 Q Did you talk to the person who came to
21 pick it up?

22 A Just briefly. I said, Yeah, this is the
23 right place, it's down there. I actually -- I
24 actually didn't see it till it was in the bag,
25 and I saw the lump in the bag. My wife saw it.

1 Q Do you know who that person was that came
2 to your property to pick it up?

3 A No. Seems like I've seen him somewhere
4 before, but I don't know his name. He probably
5 introduced himself, I probably forgot it.

6 Q You believe it was someone who worked for
7 TVA?

8 A There was at least two people that came.
9 One, I think, was a TVA employee or somebody
10 that they had contracted with subsequent to the
11 spill to handle things like this. I think he
12 had the little TVA letters on his shirt. The
13 gentleman that actually picked up the animal had
14 no identification at all on him. I didn't say a
15 word to him.

16 Q Okay. I think those are all the questions
17 I have for you, Mr. Gaddis. Thank you.

18 A Thank you.

19 MS. ALEXANDER: Done.

20 (Deposition session concluded at 3:37 P.M.)

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1 REPORTER'S CERTIFICATE

2 I certify that the witness in the
3 foregoing deposition, WILLIAM GADDIS, was by me
4 duly sworn to testify in the within-entitled
5 cause; that the said deposition was taken at the
6 time and place therein named; that the testimony
7 of said witness was reported by me, a Shorthand
8 Reporter and Notary Public of the State of
9 Tennessee authorized to administer oaths and
10 affirmations, and said testimony, pages 1
11 through 189 was thereafter transcribed into
12 typewriting.

13 I further certify that I am not of
14 counsel or attorney for either or any of the
15 parties to said deposition, nor in any way
16 interested in the outcome of the cause named in
17 said deposition.

18 IN WITNESS WHEREOF, I have hereunto
19 set my hand the 21st day of September, 2010.



25 Katherine Gale, CSR, LCR #420
My commission expires: 2/27/2012

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E R R A T A

I, WILLIAM GADDIS, having read the foregoing deposition, Pages 1 through 189, taken September 8, 2010, do hereby certify said testimony is a true and accurate transcript, with the following changes, if any:

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WILLIAM GADDIS

Notary Public

My commission expires: _____

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In The Matter Of:
George Chesney, et al. v.
Tennessee Valley Authority, et al.

Virgil Maines
August 27, 2010

Vowell & Jennings, Inc.
214 Second Avenue North
Suite 207
Nashville, Tennessee 37201
615-256-1935



Original File 082710A.TXT
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

GEORGE CHESNEY; VIRGIL)
MAINES; WILLIAM GADDIS;)
DEBRA BURNUM; PATRICIA)
CORDELL; JAMES G.)
WORLEY; JEWEL H.)
FRANCIS; DONALD W.)
SIMON; and BARBARA M.)
PHILLIPS,)
)
Plaintiffs,)
)
vs.) CASE NO. 3:09-CV-09
)
TENNESSEE VALLEY)
AUTHORITY; GEOSYNTEC)
CONSULTANTS, INC.; and)
WORLEYPARSONS)
CORPORATION,)
)
Defendants.)
_____)

DEPOSITION OF:

VIRGIL MAINES

Taken on Behalf of the Defendants

August 27, 2010

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1 The deposition of VIRGIL MAINES,
2 taken on behalf of the Defendants, on the 27th
3 day of August, 2010, at 8:39 A.M., in the Law
4 Offices of Cooley, Cooley & McFarland, 1021
5 Waterford Place, Kingston, Tennessee, for all
6 purposes under the Tennessee Rules of Civil
7 Procedure.

8 The formalities as to notice,
9 caption, certificate, et cetera, are waived.
10 All objections, except as to the form of the
11 questions, are reserved to the hearing.

12 It is agreed that Katherine Gale
13 being a Notary Public and Court Reporter for the
14 State of Tennessee, may swear the witness and
15 that the reading and signing of the completed
16 deposition by the witness are reserved.

17
18
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21
22
23 VIRGIL MAINES
24 was called as a witness, and after having been
25 first duly sworn, testified as follows:

1 P R O C E E D I N G S

2 MR. SHERK: Why don't we have
3 appearances of counsel before we get going?

4 John Sherk with Shook, Hardy & Bacon
5 representing the TVA.

6 MR. BYRNE: David Byrne on behalf
7 of Chesney plaintiffs and for the witness,
8 Mr. Maines.

9 MS. FRY: Brantley Fry on behalf of
10 the Chesney defendants and Mr. Maines.

11 MS. LOWE: Ashley Lowe on behalf of
12 GeoSyntec.

13 MS. BENNETT: Libby Stennes on behalf
14 of WorleyParsons.

15 MS. WARD: Elizabeth Ward on behalf
16 of TVA.

17 MR. AYLIFFE: David Ayliffe on behalf
18 of TVA.

19 E X A M I N A T I O N

20 BY MR. SHERK:

21 Q Please state your name for the record.

22 A Virgil Lee Maines III.

23 Q Mr. Maines, I'm John K. Sherk III. Nice
24 to see you this morning.

25 I'll be asking you the bulk of the

1 questions today, although I'm sure my colleagues
2 will have some follow-up questions after I'm
3 done.

4 Have you had your deposition taken
5 before?

6 A Once, yes.

7 Q Would you like me to give you a quick
8 refresher on the --

9 A Please, it's been several years ago.

10 Q All right. I'd be happy to do that.

11 As you understand, you'll have to
12 give a verbal response to the questions I ask.

13 Okay?

14 A Yes.

15 Q Very good. Head nods and "uh-huhs" don't
16 translate so well on the record, so we'll need a
17 "yes" or "no" or a more full explanation if
18 that's required.

19 All right?

20 A Yes.

21 Q It's very important that we not talk over
22 each other, so if you'd let me complete my
23 question before you offer your answer, that
24 would be perfect.

25 All right?

1 A Very good.

2 Q It's tough for Katherine to take down the
3 testimony accurately if we're spilling all over
4 each other.

5 If you don't understand my question
6 please let me know, and I'll rephrase it for
7 you.

8 Okay?

9 A Okay.

10 Q Are you feeling good such that you can
11 give full and accurate testimony today?

12 A Yes.

13 Q Are you on any medications that would
14 impair your ability to give full and accurate
15 testimony this morning?

16 A No.

17 Q Okay. As I've said to some of your
18 co-class representatives, this is not an
19 endurance contest, so if you would like to take
20 a break, please let me know and we'll be happy
21 to accommodate that.

22 All right?

23 A Okay.

24 Q We're going to move through the material
25 as quickly and efficiently as we can today, so

1 we'll try to get things organized. Bear with me
2 if I jump around a little bit, but I think we've
3 got a game plan. So we'll just get going.

4 All right?

5 A Sounds good.

6 Q Mr. Maines, what have you done to prepare
7 for your deposition today?

8 A I met with Beth Alexander yesterday.

9 Q Did the meeting take place here?

10 A Yes.

11 Q How long did it last?

12 A I must have been here an hour, 90 minutes.

13 Q Any other similar meetings with counsel in
14 preparation for today's deposition?

15 A No.

16 Q Did you review any documents in
17 preparation for today's deposition?

18 A Yes.

19 Q What documents were those?

20 A We looked at the Complaint, the
21 consolidated complaint, and went through the
22 elements of what the document meant and some of
23 the documents I provided initially.

24 Q Do you have any additional documents that
25 you brought with you today?

1 A No.

2 Q Okay. So we have the complete set?

3 A You have everything I provided.

4 Q Okay. Your meeting with Ms. Alexander,
5 was anyone else present?

6 A Brantley and David came in, I guess after
7 you guys wrapped up here.

8 Q And they are all your counsel; correct?

9 A Correct.

10 Q What law firms represent you to the best
11 of your understanding?

12 A Leiff, Cabraser is who I signed my
13 agreement with.

14 Q Okay. Did you talk to family members in
15 advance of today's deposition about the
16 deposition?

17 A I mentioned it to my father last night.

18 Q Did he offer any words of wisdom?

19 A No. He said, Tell it like it is.

20 Q How about neighbors or friends?

21 A None.

22 Q Not really, no?

23 A I informed my boss I was going to be here
24 today.

25 Q All right. Coworkers?

1 A No. Let me back up. Matt Caldwell was
2 here yesterday and we know each other, so I
3 guess he knew why I was here.

4 Q Matt Caldwell is a coworker?

5 A Actually, he was the developer that I
6 worked for.

7 Q So he's your boss?

8 A Formerly.

9 Q Did you talk to your pastor or minister
10 about this deposition?

11 A No.

12 Q Have you talked to a pastor or minister
13 about the dike spill or anything that surrounds
14 it?

15 A No.

16 Q Have you felt the need to go to a
17 psychiatrist or psychologist with regard to this
18 lawsuit?

19 A No.

20 Q Nor with regard to the deposition today, I
21 would expect?

22 A No. Not yet.

23 Q I hope we don't get there.

24 I observed from the documents that
25 you provided to your counsel who then provided

1 them to me, that you have, you know, some
2 familiarity with e-mail?

3 A Yes.

4 Q Do you have e-mail access both at home and
5 at work?

6 A Yes.

7 Q Have you used e-mail to talk about TVA and
8 the dike spill?

9 A Just the communications with my attorney,
10 primarily related to collecting these documents
11 and scheduling this meeting. And I had some
12 communications with TVA surrounding the lease of
13 the property that was a lot of electronics. I
14 think I provided all that.

15 Q I've got that, I think.

16 Are you on an e-mail group of
17 individuals that communicate about the spill at
18 the TVA facility and its ramifications?

19 A No, I'm not.

20 Q Okay. Do you have your own website or
21 blog?

22 A No, I don't.

23 Q Do you use the Internet to look up
24 information about TVA?

25 A Yes.

1 Q Have you visited the TVA website?

2 A Yes.

3 Q What other sites do you look at to obtain
4 information about TVA?

5 A Just what's in the news.

6 Q So are there news sites on the Internet
7 that you visit to gain additional information?

8 A There was a fair bit of information
9 initially on the national news, so I followed
10 that. And the local papers have -- Knoxville
11 and Roane County have web representation, so --

12 Q Are you familiar with the Citizens
13 Advisory Group?

14 A Yes.

15 Q What is that, to the best of your
16 understanding?

17 A It's a group of folks that were selected
18 to work with TVA to resolve issues surrounding
19 the spill.

20 Q Are you a member of that group?

21 A No, I'm not.

22 Q Do you know anyone who's on the group?

23 A Steve Scarborough.

24 Q Is he a neighbor?

25 A No.

1 Q An acquaintance?

2 A Yes.

3 Q Do you know Don Simon?

4 A No.

5 Q Have you received communications from the

6 Citizens Advisory Group?

7 A No.

8 Q Have you offered suggestions to your

9 friend Steve Scarborough about matters that the

10 Citizens Advisory Group might take up with TVA

11 or other agencies?

12 A No, I haven't.

13 Q Okay. How is it that you became

14 acquainted with the existence of the Citizens

15 Advisory Group?

16 A Steve was in the same office that I'm in,

17 and -- which is right up here -- at that time,

18 and so there was a fair bit of conversation

19 about what was going up there after the spill.

20 So I guess that's how I became aware of it.

21 Q You're referring to the white office

22 building that's right across the street?

23 A Correct.

24 Q This's a gorgeous building.

25 A Thanks.

1 Q Did you have a hand in building that?

2 A I built everything you see.

3 Q This entire -- this Ladd Landing area?

4 A Yeah, this entirety.

5 Q The very room we're in?

6 A Pardon? Yes, the very room we're in. I
7 never thought I'd use it for something like
8 this.

9 Q If you build it, they will come. This may
10 not be what "they" you were counting on, but --

11 All right. We were talking about
12 Internet sites, and I got a little bit off
13 track.

14 Do you belong to a group with your
15 fellow class representatives, in an e-mail
16 group?

17 A No.

18 Q What did you do in terms of gathering
19 documents and e-mails and such in connection
20 with this lawsuit?

21 A E-mails, I guess.

22 Restate it. I'm not sure.

23 Q Sure. We received from you a voluminous
24 amount of material in connection with our
25 requests, and I'm just wondering what was your

1 understanding as to what you should be retaining
2 in terms of documents and e-mails because you're
3 a part of this lawsuit.

4 A I guess, you know, e-mails are what they
5 are. I didn't see any need in trying to make
6 any particular effort to retain them because
7 they're retrievable. But other documents,
8 primarily I typically just put them in a file
9 folder and I'll tag them either by day or
10 subject matter. And when the request for
11 documents came around, that's sort of how I
12 searched it. I actually handed them off to an
13 assistant to make copies, typically just said
14 the entire folder, just said everything in the
15 folder.

16 Q Is that kind of the way you're wired? You
17 get stuff and organize it and file it away?

18 A Typically.

19 Q When did you retain counsel,
20 approximately?

21 A That's a good question. I'm not sure. It
22 was after the correspondence from TVA where they
23 felt like they were not responsible for any
24 damage to persons in my area. So whatever date
25 that is, it was subsequent to that.

1 Q At least three months after the spill?

2 A Oh, more than that.

3 Q More than that maybe even six months after
4 the spill?

5 A I think more than that.

6 Q So as I look at the documents that you
7 provided, you had many documents that predate
8 the retention of counsel. So is it correct to
9 think that you had just been saving these fliers
10 and information materials that you had received
11 from TVA and other agencies?

12 A Same thing. It's like I said, I just put
13 it in a file. If I ever want to retrieve it, if
14 I can drill down far enough, I can usually find
15 it.

16 Q Are there e-mails that you have not
17 produced that would be related to this lawsuit
18 that you haven't turned over to your counsel?

19 A No.

20 Q And I'm expressly excluding those
21 communications between you and your counsel
22 because those are confidential. The answer is
23 "no"?

24 A "No."

25 Q All right. Did you save any of the air

1 filters from your heating and air conditioning
2 system at your house?

3 A No, I didn't think to do that.

4 Q Did you -- did you wipe down the interior
5 or the exterior of your house and save those
6 wipes?

7 A No, I didn't.

8 Q Okay. Did you collect any soil samples
9 and save them after the spill?

10 A No.

11 Q Did you collect any water samples and save
12 them after the spill?

13 A No.

14 Q Okay. Let's shift gears a little bit and
15 talk a little bit about you and your background.

16 Okay?

17 Are you presently married?

18 A No.

19 Q Have you been married?

20 A Yes.

21 Q More than once?

22 A Yes.

23 Q Can you just quickly take me
24 through -- well, can you tell me the name of
25 your first wife?

1 A Christiana Marie Weatherwax.
2 Q Christiana?
3 A Uh-huh.
4 Q And what were the dates of your marriage?
5 A Wow. '72 to '77.
6 Q Do you still keep in touch with your first
7 wife?
8 A She's deceased.
9 Q When did she die?
10 A Five years ago, I believe.
11 Q 2005?
12 A Uh-huh.
13 Q What was the name of your second wife?
14 A Gerd, G-e-r-d, Loree, L-o-r-e-e, Rowland.
15 Q What were the dates of your marriage to
16 Ms. Rowland?
17 A '79 to 2007.
18 Q Did Ms. Rowland ever live with you at 2155
19 Sugar Grove Valley Road?
20 A Yes.
21 Q What were the dates that she lived with
22 you at that location?
23 A From the time we occupied the house until
24 some part of 2007.
25 Q When did you buy that house?

1 A About 20 years ago, 21 years ago, so it
2 would have been '89, something like that, '88,
3 '89.

4 Q And you owned -- and you still own the
5 house?

6 A Yes.

7 Q And it is the house at 2155 Sugar Grove
8 Valley Road?

9 A Yes.

10 Q That pertains to this lawsuit?

11 A Yes.

12 Q Where does Ms. Rowland live now?

13 A I'm not sure of her exact address. It's
14 James Ferry Road, Kingston.

15 Q So she's still in the area?

16 A Yes.

17 Q Do you have children?

18 A Yes.

19 Q What are their names and ages?

20 A Zachary Lee Maines, he's 28.

21 Q And do you have any other children?

22 A Megan Loree Maines, she's 24.

23 Q Do either of your children live with you?

24 A No.

25 Q Have any of your -- have your children

1 ever lived with you at 2155 Sugar Grove Valley
2 Road?

3 A Yes.

4 Q During what periods of time did Zachary
5 live with you there?

6 A Do I need to exclude periods like when he
7 was in college, because he still lived there.
8 He just wasn't there -- well, I'll just go
9 through it.

10 Q Okay.

11 A From the time we occupied the house until
12 about 2006.

13 Q When did Zachary go to college?

14 A 2001.

15 Q So from 2001 to 2005 he was --

16 A Well, he washed out a couple times.
17 That's why I say he kept coming back.

18 Q Okay. I've heard about that syndrome.

19 All right. So he was there on and
20 off from 2001 to 2006?

21 A Yes.

22 Q How about your daughter Megan?

23 A She graduated from college in 2007, and I
24 guess resided there at that time and then has
25 stayed there intermittently since.

1 Q Did your son go to college in the area?
2 A Johnson City, ETSU.
3 Q How about your daughter Megan?
4 A Tennessee Wesleyan, Athens, Tennessee.
5 Q Are your parents still living?
6 A My mother's deceased.
7 Q What year did she die?
8 A In 2006.
9 Q What was her cause of death?
10 A Pancreatic cancer.
11 Q And your father's still alive?
12 A He's still living.
13 Q Does he live in the area?
14 A Ohio.
15 Q Is he in good health?
16 A He's recovering from a heart attack.
17 Q Where are you currently residing?
18 A 2155.
19 Q Okay. Is anyone living with you in the
20 house now, today?
21 A Yes.
22 Q Who is that?
23 A Mary Sue Colyer, C-o-l-y-e-r.
24 Q Is she a domestic partner?
25 A Yes.

1 Q How long has she lived there?

2 A Since last August or September.

3 Q Does -- is Ms. Colyer currently involved

4 in any litigation against TVA arising from the

5 ash spill?

6 A No.

7 Q Do you have siblings?

8 A Yes.

9 Q Could I have their names and ages?

10 A My brother is Daniel Leo Maines, he's 54.

11 I have two half sisters and a half brother:

12 Tracy - I can't remember her married name;

13 Kristy and Steven, Steven Maines. They all live

14 in Ohio.

15 Q Are they all in good health?

16 A As far as I know.

17 Q Did you graduate from high school?

18 A Yes.

19 Q Whereabouts?

20 A Coalfield, Tennessee.

21 Q What year was that?

22 A 1971.

23 Q What is your date of birth?

24 A 1/10/53.

25 Q Did you go to college?

1 A Yes.

2 Q Where did you go?

3 A I went to Bowling Green in Bowling Green,
4 Ohio and University of Denver.

5 Q DU?

6 A Yes.

7 Q Did you graduate from either of those
8 schools?

9 A No, I didn't.

10 Q Did you graduate from any college?

11 A No.

12 Q Approximately what years did you go to
13 Bowling Green and DU?

14 A Bowling Green would have been in '72, '73;
15 DU would have been '74, '76, something like
16 that.

17 Q What did you study while you were at
18 school?

19 A Building technology and real estate.

20 Q After you left college, did you have any
21 additional educational courses or training?

22 A I've taken some technical training
23 courses, some in communications, software
24 operation.

25 Q Were these courses related to your career?

1 A Yes.

2 Q Are you a builder?

3 A Yes.

4 Q That's not the right word. Contractor?

5 A Well, I'm not either currently.

6 Q What are you doing now?

7 A I'm a clerk of the work, owner's

8 representative.

9 Q So you represent owners as they go through

10 building projects?

11 A The design and construction process.

12 Q Has that been a successful endeavor?

13 A So far, yeah.

14 Q Is this your own company?

15 A No, I'm an employee under contract.

16 Q When you were in high school and in

17 college, did you study chemistry?

18 A Not much.

19 Q When you were in college, did you take any

20 classes involving the health sciences or

21 medicine?

22 A No.

23 Q Did you take any courses in environmental

24 sciences?

25 A No.

1 Q How about toxicology?

2 A No.

3 Q Agriculture?

4 A No.

5 Q As I understand it, you're currently

6 employed with clerk of the work?

7 A That's the job title. It's Clerk of the

8 Work/Owner's Representative.

9 Q And what is the name of your employer?

10 A Roane County Schools.

11 Q How long have you worked for Roane County

12 Schools?

13 A Since March 1.

14 Q March 1, 2010?

15 A Yes.

16 Q Where did you work before then?

17 A Pioneer Commercial Construction.

18 Q What were your dates of employment?

19 A I was there about 14 years. I got back

20 into it '96 to March of this year.

21 Q Prior to working at Pioneer Construction,

22 where did you go work?

23 A I had a small company of my own called

24 Jericho here in Roane County.

25 Q Jericho Construction Company?

1 A Yeah.

2 Q That was your own business?

3 A Yes.

4 Q How long?

5 A About two years.

6 Q So '94 to '96?

7 A Yeah.

8 Q Prior to that, where did you work?

9 A Rhondene, R-h-o-n-d-e-n-e, Corporation in

10 Oak Ridge. I was there for about 12 years.

11 Q What sort of company was that?

12 A Construction development.

13 Q So is it fair to say that your entire work

14 career has involved construction in one way,

15 shape or form?

16 A I worked -- I broke my shoulder sometime

17 in the mid '70s and tried to sell insurance for

18 a little while while I was recovering, but

19 otherwise, that's all I've ever done.

20 Q Was the broken shoulder a work-related

21 injury?

22 A Yes.

23 Q Did you have a Workers' Compensation

24 claim?

25 A No.

1 Q Okay. Is that the only -- only injury
2 that you've suffered while you've been at work?

3 A Well, I've had smashed fingers and things
4 like that, but that's the only thing that, I
5 guess, required emergency medical care.

6 Q How did you do that?

7 A Break my shoulder?

8 Q Uh-huh.

9 A It was late in the day on a project that I
10 was supervising, and the nature of the project
11 had connecting scaffolds that would go from unit
12 to unit. And a young man came by -- I was there
13 by myself at the end of the day -- looking for a
14 job, and he stepped out on the scaffolding to
15 shake my hand and the scaffold board broke, and
16 we both fell two stories. He broke two wrists,
17 and I broke my shoulder.

18 Q All right. No Workers' Compensation claim
19 in your career?

20 A I was self-employed at the time.

21 Q Have you ever had any kind of lawsuit
22 against an employer?

23 A No.

24 Q Did you ever feel that the environment of
25 the workplace has caused you to become sick?

1 A No.

2 Q Have you ever worked in the manufacturing
3 sector?

4 A No.

5 Q Never worked in an automobile plant?

6 A No.

7 Q How about in a chemical plant?

8 A No.

9 Q Paint operation, paint plant?

10 A No.

11 Q How about a plant that makes glues or
12 solvents?

13 A No.

14 Q Did you ever work for a weapons
15 manufacturer?

16 A No.

17 Q Ever work at Y-12 or K-25?

18 A No.

19 Q In the course of your work, have you ever
20 been exposed to asbestos?

21 A Not to my knowledge.

22 Q Silicas?

23 A Not to my knowledge.

24 Q Beryllium?

25 A Yes.

1 Q How so?

2 A I built a plant that processed -- that had
3 a -- I added a beryllium processing component to
4 an existing manufacturing facility. But, I
5 guess the answer to your question, I prepared
6 the plant to accept beryllium. It really wasn't
7 loaded until I completed the work.

8 Q Where was that plant?

9 A Oak Ridge.

10 Q Who was the owner on that project?

11 A At that time, it was a company called
12 Manufacturing Sciences Group. It was owned by
13 Dick Duchosis out of Chicago.

14 Q So you actually built a building that was
15 meant to house beryllium?

16 A No, I added space in an existing building
17 to where they can smelt and machine beryllium.

18 Q What did that entail, the building out of
19 that space?

20 A Well, as you know, it's toxic, so if you're
21 going to melt it, it has to be contained in a
22 filtration system. So it had to have
23 sophisticated filtration systems. And then you
24 want negative atmospheres so the pressure
25 outside the rooms are always greater than the

1 pressure inside the rooms so the air doesn't
2 migrate out during any of the manufacturing
3 processes. Primarily, it involves deluges and
4 specific hoods to contain any airbornes, either
5 smoke or particulates, that may be released as
6 part of that process.

7 Q When were you involved in building out the
8 space at Oak Ridge?

9 A This is a guess, I'm going to say '83,
10 '84.

11 Q Was this when you were with Pioneer
12 Construction?

13 A No, it was with Rhondene.

14 Q Have you ever been exposed to mercury on
15 the job site?

16 A No.

17 Q Ever been exposed to magnesium --

18 A No.

19 Q -- at work?

20 Have you been exposed to selenium or
21 cobalt at work?

22 A No.

23 Q How about vanadium or arsenic?

24 A Not to my knowledge.

25 Q In any of your jobs have you been required

1 to wear protective gear?

2 A Yes.

3 Q What sorts of protective gear?

4 A Primarily shoe covers, some kind of
5 multiple air shoe covers, and safety glasses,
6 air protection, that sort of thing.

7 Q How about hardhat?

8 A Yes, that's standard.

9 Q You've never had to wear a facemask or
10 respirator?

11 A No.

12 Q A body suit or radiation badge?

13 A No. You know, I have had to wear a
14 dosimeter.

15 Q I'm sorry.

16 A It's called a dosimeter, but, yeah, a
17 radiation badge.

18 Q The dosimeter, was that in connection with
19 the beryllium?

20 A No.

21 Q What was that in connection with?

22 A I built a depleted uranium processing
23 facility.

24 Q Where was that facility located?

25 A It was also in Oak Ridge. It was also

1 Manufacturing Sciences.

2 Q That was the owner?

3 A Correct.

4 Q That was when you worked for --

5 A Rhondene.

6 Q Rhondene. I just couldn't --

7 A It's a combination of Rhonda and Arlene.

8 Q When did you work on the depleted uranium
9 processing facility?

10 A Well, I guess let's put it in context. It
11 was in a period of time between '84 and '88. I
12 did several projects from their initial
13 construction, and some additions, and then the
14 buildout for the beryllium processing.

15 Q So when you were working on the depleted
16 uranium processing facility, you had to wear a
17 dosimeter?

18 A Correct.

19 Q What was that supposed to detect?

20 A Low levels of radioactivity.

21 Q Did your dosimeter ever show a positive
22 reading?

23 A No.

24 Q Were you in contact with or around uranium
25 itself while you were working on that processing

1 facility?

2 A Depleted uranium, yes.

3 Q But you weren't required to wear any
4 protective gear as I understand it?

5 A Well, it was zero-release plan. It's
6 because the nature of the ventilation. Unless
7 you were actually going to handle the material,
8 you didn't need any protective gear other than
9 shoe covers, that sort of thing.

10 Q Over the years, has Rhodene handled major
11 contracts for the Department of Energy?

12 A No, this was not Department of Energy.
13 This was private.

14 Q All right. Did Rhodene develop a
15 specialty in building these kinds of facilities
16 while you worked there?

17 A No, it was strictly opportunistic.

18 Q As a consequence of working at the
19 depleted uranium processing facility, did you
20 ever have to undergo any kind of medical
21 screening?

22 A No. The licensing threshold for
23 processing depleted uranium is pretty low.

24 Q Are there other companies or -- or
25 businesses that you have ownership interests in

1 right now?

2 A I have an interest in two partnerships.
3 One is called Waterfront Plantation, and it's
4 property is south of Kingston on Watts Bar Lake.

5 Q What does that partnership seek to do?

6 A It is a single asset. It's got just about
7 400 acres of undeveloped property.

8 Q And is it your -- the plan of the
9 partnership to develop that property?

10 A Yes.

11 Q Build houses on it?

12 A Residents, residential development.

13 Q Would you envision putting up developments
14 such as the one we're in, like Ladd Landing?

15 A I doubt if we'd have this commercial
16 component. It's outlying, so it would be more
17 in a resort setting.

18 Q Besides the Waterfront Plantation what's
19 the other partnership that you have?

20 A Highland Reserve.

21 Q What is that?

22 A It's also property development south of
23 Kingston along the Tennessee River.

24 Q How far south of Kingston?

25 A Seven and a half miles.

1 Q Is the property along the Tennessee River?

2 A It has access to it -- it has one
3 component that touches the Tennessee River and
4 has access to it.

5 Q Getting back to the Waterfront Plantation
6 partnership, that is along Watts Bar Lake?

7 A Correct.

8 Q That is not too far from here?

9 A It would be 12 river miles possibly,
10 something in that neighborhood.

11 Q Do the properties have lake access that
12 you --

13 A Yes.

14 Q That the partnership owns?

15 A The Waterfront Plantation has lake
16 frontage, water frontage.

17 Q With regard to both Waterfront Plantation
18 and Highland Reserve, as I understand it, these
19 are just tracts of land that are currently
20 undeveloped?

21 A Highland Reserve is developed. It has all
22 the infrastructures in place. As a matter of
23 fact, I think they're paving down there today.

24 Q Oh, gosh. And you are a partner in this
25 enterprise?

1 A Yes.

2 Q Are properties ready to go up for sale
3 soon?

4 A Have been.

5 Q And have any sold?

6 A They sold one last year. They sold
7 several the year previous to that, in 2008.

8 Q I guess this probably hasn't been the best
9 time to be in real estate development or housing
10 because of the national housing downturn?

11 A It has had an impact.

12 Q Do you think that the properties that
13 you're offering at Highland Reserve are such
14 that they remain attractive and sellable despite
15 the national downturn in housing?

16 A Yes.

17 Q Why is that?

18 A Because it's a gated community that's
19 highly restricted in an area for people that
20 would like not to be bothered. It's got a great
21 view of the Cumberlands.

22 Q Are these expansive lots?

23 A Yes.

24 Q Large houses?

25 A Yeah.

1 Q Have you ever been a party to a lawsuit
2 besides this one?

3 A No.

4 Q Have you ever been arrested or convicted
5 of a crime?

6 A I've been arrested. I've never been
7 convicted of a crime.

8 Q Ever pled guilty to a crime?

9 A No. Well, speeding.

10 Q How did you get involved in this lawsuit?

11 A After the spill, some period of time after
12 the spill, I visited with Pat Cooley, who's
13 represented me before, to seek his advice on how
14 to proceed, and I think he had already had
15 contact with Leiff, Cabraser. He recommended
16 that I consider them, and I received an
17 information packet from them that I carried
18 around for several months before I executed it,
19 the representation agreement.

20 Q What made you decide ultimately to pull
21 the trigger on becoming involved or --

22 A Correspondence from TVA that said they
23 felt like they had not caused any harm.

24 Q Was the correspondence that you received
25 from TVA in response to a letter or inquiry that

1 you had made to TVA?

2 A No, it was a form letter that everyone in
3 my area received.

4 Q Okay. And would -- how would you describe
5 the area of 2155 where you live?

6 A It's on about river mile .5 on the Emory
7 River. It's opposite the TVA property. It was
8 a TWRA reserve for many years, I guess it still
9 is. It has a dock permit and a deep water dock.

10 Q Did you interview any of the counsel at
11 Leiff, Cabraser before retaining them?

12 A I spoke to Beth Alexander on the phone.

13 Q Did you consider any others law firms
14 prior to making your decision to retain Leiff,
15 Cabraser?

16 A Not really.

17 Q Since filing this lawsuit, and I'm
18 speaking the lawsuit where you're a named class
19 representative --

20 A Yes.

21 Q -- the Chesney case, how often have you
22 had the opportunity to speak with your counsel?

23 A I guess any time I wanted to. It's been
24 fairly infrequent. I haven't had anything to
25 share.

1 Q How do you keep up with the progress of
2 the case?

3 A I receive correspondence periodically from
4 them.

5 Q Have you made any effort to communicate
6 with the other class representatives that are
7 named in the Chesney consolidated class action
8 complaint?

9 A No.

10 Q Do you know any of the other named class
11 representative in this lawsuit?

12 A Well, I met Mr. Worley out in the lobby
13 yesterday, but otherwise I don't know anyone.

14 Q Okay. Did you ever go to any
15 presentations given by Erin Brockovich after the
16 spill occurred?

17 A No.

18 Q Have any friends and family members
19 encouraged you to become involved in litigation?

20 A No.

21 Q Has anyone tried to discourage your
22 participation in this lawsuit?

23 A No.

24 Q Okay. You're aware that this is a
25 proposed class action case?

1 A Well, I knew it was a class action case.

2 Q What does that mean to you, class action?

3 A That you've taken all the people that feel
4 like they have a similar complaint and combining
5 them to try at one time.

6 Q And you understand you're serving as a
7 class representative?

8 A Yes.

9 Q Have you done anything in particular to
10 prepare yourself to be a class representative in
11 this case?

12 A I read through the Complaint yesterday.

13 Q Have you investigated other properties
14 other than your own in connection with being a
15 class representative?

16 A No.

17 Q Have you spoken with neighbors and friends
18 who might fall within the class geographic areas
19 described in this Complaint?

20 A Regarding?

21 Q Regarding the allegations made in the case
22 and what the class action that you're a part of
23 is seeking.

24 A There was -- I mean, my neighbors,
25 obviously. During the period after the spill,

1 there was discussion about what was going on,
2 but -- and you know, what they were
3 contemplating doing, and things like that. But
4 specifically, not particularly since I've been
5 -- engaged Leiff, Cabraser, I haven't spoken
6 with any of them.

7 MR. SHERK: I'd like to take a
8 moment. Let's go off the record.

9 (Recess.)

10 BY MR. SHERK:

11 Q Back on the record.

12 Mr. Maines, you've been handed
13 Exhibit No. 1, and I'll represent to you that
14 this is a copy of the consolidated class action
15 complaint in this case.

16 Do see that document?

17 A Yes.

18 (Marked Exhibit 1.)

19 BY MR. SHERK:

20 Q And do you see your name displayed there
21 on page 1?

22 A Yes.

23 Q Okay. Are you familiar with the classes
24 that are being proposed in this case?

25 A As we discussed them yesterday, yes.

1 Q Okay. What classes do you and your
2 counsel propose to have certified here in this
3 lawsuit?

4 A I'm sorry, you'll have to --

5 Q Sure. What -- actually, there are three
6 different classes --

7 A Correct.

8 Q That are identified in this Complaint.

9 Do you know what those are?

10 A I think so.

11 Q How would you describe them?

12 A Class 1 is areas that are -- properties
13 that are in the impact area that have been
14 defined by some map. Actually, it's an aerial
15 photo I've seen. Class 2 is an area that is
16 defined by properties that are south of
17 Kingston, generally, that I think are two or
18 three lots deep from the lakefront. And then,
19 the resident class, I guess anyone who was in
20 the impacted area, so in terms of health
21 monitoring, future health concerns.

22 Q Mr. Maines, you've been handed Deposition
23 Exhibit No. 2, and I'll represent to you that
24 this is a map of the geographic area of Class 1
25 as found attached to the back of your

1 consolidated class action complaint.

2 Do you see that?

3 A Yes.

4 (Marked Exhibit 2.)

5 BY MR. SHERK:

6 Q This is the colored copy of the map.

7 A It's a lot easier to look at.

8 Q It sure is.

9 Do you have any idea how this
10 geographic area was arrived at?

11 A As I understand it, it was a consultation
12 among all of the attorneys involved.

13 Q Okay. Did you personally have any input
14 in crafting this geographic area?

15 A No.

16 Q "No"?

17 A "No."

18 Q All right. Now that you have taken a look
19 at it and thought about it, do you have any
20 refinements or expansions or subtractions to the
21 geographic class area that's shown on this map?

22 A Well, I guess I've looked at it yesterday.
23 I don't quite understand why it's everything
24 north of I-40 and why you didn't include the
25 east side of the Clinch River. I don't see how

1 one shoreline can be impacted and not the other.

2 Q Mr. Maines, you've been handed Exhibit
3 No. 3, and I'll represent to you that this is a
4 map of the Kingston area which has the Class 1
5 geographic area superimposed in purple.

6 Do you see that?

7 A Yes.

8 (Marked Exhibit 3.)

9 BY MR. SHERK:

10 Q If you compare that to the map that's
11 attached to the Consolidated Class Action
12 Complaint, Exhibit 2, does that look like
13 substantially the same class geographic area?

14 A They appear to be similar, yes.

15 Q We've done our best to make them as close
16 as we could, I'll say that.

17 Now, can you point out where your
18 house is on Exhibit No. 3? And I've got a
19 Sharpie here, a red Sharpie.

20 A Red? Do it here?

21 Q Sure, yeah. Okay, can you label that, and
22 can you put the address or whatever?

23 A I'll just do a pull-down.

24 Q Okay. Once again, how would you describe
25 this area where you live?

1 A I'm about a half a mile from the
2 confluence of the Clinch and the Emory Rivers.

3 Q You have a lakefront lot?

4 A Yes.

5 Q Or riverfront lot?

6 A Riverfront.

7 Q Okay. Mr. Maines, I'm now presenting to
8 you Exhibit No. 4 which is a blowup of Exhibit
9 No. 3.

10 Do you see that?

11 A Yes.

12 (Marked Exhibit 4.)

13 BY MR. SHERK:

14 Q Hopefully this is a little bit easier to
15 read.

16 MR. BYRNE: Not to interrupt, but
17 have you got another copy of the blowup of
18 Exhibit 4?

19 MR. SHERK: I'll get you a copy of
20 this, David. Sorry about that.

21 Q Could you mark on this map your house just
22 as you did with Exhibit 3?

23 A (Witness complies.)

24 Q Go ahead and label that again.

25 A This used to be Route 2. They changed it

1 to a mouthful.

2 Q It is a long road name. There's no doubt
3 about that.

4 A Yes, it is.

5 Q All right. You mentioned earlier that if
6 you were to tweak the class boundary for
7 property class No. 1, you would expand it, as I
8 understand it; correct?

9 A Yes.

10 Q Okay. Could you use the blue Sharpie and
11 just draw where you think the class might be
12 modified?

13 MR. BYRNE: Object to form. You may
14 go ahead.

15 THE WITNESS: This is sort of
16 oversimplifying, but --

17 MR. BYRNE: Do you want a pencil
18 before you make something permanent?

19 THE WITNESS: Yeah, that might be
20 better.

21 BY MR. SHERK:

22 Q Can you describe the addition that you
23 just made to the class area, Mr. Maines?

24 A Uh-huh. Can I describe it?

25 Q Yes.

1 A From the original boundary, it's south
2 along I-40. I went east to about the Kingston
3 exit and then extended the line coming from
4 Sugar Grove Valley Road South to connect and
5 close the shape.

6 Q Was it your observation earlier that you
7 didn't understand why the current class boundary
8 embraced one bank of the Clinch River but not
9 the other?

10 A Correct. I just don't understand the
11 logic.

12 Q Mr. Maines, you've been handed Deposition
13 Exhibit No. 5, and I'll represent to you that
14 that is a map which shows property Class 2,
15 insofar as it tracks its passage down the Emory,
16 Clinch and Tennessee Rivers.

17 Do you see that?

18 A Yes.

19 (Marked Exhibit 5.)

20 BY MR. SHERK:

21 Q And please, feel free to refer to page 27
22 of the consolidated class action complaint which
23 has got -- I guess it's open right there -- it's
24 got the class definition of property class 2.

25 Mr. Maines, I don't have a big one of

1 this. I wish I had, but I don't.

2 If you look at Exhibit No. 5 --

3 A Yes.

4 Q And then refer to the consolidated class
5 action complaint, paragraph 162, page 27, it
6 looks as if the property damage class 2 starts
7 at mile marker 0.0 of the Emory River; correct?

8 A Well, actually, it's up the Clinch a bit.
9 At least the one I'm looking at.

10 Q Yeah, we'll get to that.

11 A Okay. Well, you asked where it started.

12 Q Oh, okay.

13 A It includes 0.0.

14 Q You should have gone to law school. I'm
15 kidding.

16 All right. So if we look, then, to
17 the second sentence of property damage class 2,
18 in paragraph 162 of the consolidated class
19 action complaint, it says,

20 "Also included in this
21 class are all persons owning
22 real property on the eastern and
23 southern shoreline from the
24 Clinch River from Clinch River
25 Mile 5.5 to the confluence of

1 the Emory and Clinch Rivers."

2 Is that the location that you were
3 just referring to?

4 A Yes.

5 Q Okay. So that segment then leads to Emory
6 River mile marker 0.0; correct?

7 A Yes.

8 Q And from then, the class boundary would
9 travel all the way down to the Watts Bar Lake
10 downstream; correct?

11 A Yes.

12 Q Okay. Did you have any input in the
13 crafting of this class geographic area?

14 A No.

15 Q Okay. Is there any revision you would
16 suggest to it, after having looked at it and
17 thought about it over the last day or so?

18 A Well, I guess probably I'd go up the
19 Tennessee River 8 or 10 miles.

20 Q You would go north on -- well -- hang on.

21 A Correct.

22 Q Let me make sure I understand.

23 A This is the Tennessee River.

24 Q Correct. Oh, I see what you're saying.

25 Okay. Why don't you draw in red

1 what you might include there.

2 A This is Wolf Creek, right there. That's
3 about 10 miles up the river.

4 Q Okay.

5 A And I assume that these coves are
6 included, that this is just representative of --

7 Q Well --

8 A And they are lakefront also. Like this
9 area here where the Piney River comes in, are
10 these places included, or is it just along the
11 main channel?

12 MR. BYRNE: Let me just say for the
13 record that this map represents TVA's attempt to
14 display the definition of the --

15 THE WITNESS: Well, I mean, as it's
16 described, it includes the shoreline
17 essentially.

18 MR. BYRNE: Let me get this out.
19 This map represents TVA's effort to depict
20 what's described here in paragraph 162 of the
21 consolidated complaint as property damage
22 class 2. And I think that's -- is that fair,
23 John?

24 MR. SHERK: That's fair.

25 MR. BYRNE: That's not an attachment

1 to the Chesney consolidated complaint.

2 THE WITNESS: Well, I mean, with this
3 caveat: If this means all of the shoreline
4 that's identified by that line going down the
5 main channel, yes, that's the way I would see
6 it.

7 BY MR. SHERK:

8 Q And in preparing this, we did try to
9 follow the class definition in that we plotted
10 the course of the river down. But we didn't go
11 on this map to -- we didn't include the
12 waterfront property and properties situated
13 within two lots inland thereof on this small
14 map. That's also part of the class definition.

15 Now, in your estimation, would that
16 class definition embrace those coves that you
17 identified just a couple minutes earlier?

18 A Yes, they're waterfront property. I mean
19 they have the same impact that someone on the
20 main channel has.

21 Q So other than -- than including the
22 10-mile span or so of the Tennessee, that's the
23 only change that you would suggest to --

24 A Again, with the qualifier if this
25 represents all of the shoreline of Watts Bar

1 Lake. That's all I would change.

2 Q Okay. Going back to Exhibit No. 4 and
3 thinking about those in the resident class, who
4 do you understand would be embraced within the
5 resident class if you were looking at Exhibit 4?

6 A You mean as individuals or as property?

7 Q Well, as those folks that are
8 described -- those persons residing within the
9 geographic boundaries of property damage class 1
10 on December 22, 2008.

11 A I'm not sure I understand what you're
12 after.

13 Q Sure. In other words, class boundary 1
14 would also be the geographic boundary of the
15 resident class as well?

16 A Correct.

17 Q Then if you were to suggest your addition
18 to the class boundary to property damage
19 class 1, the residents -- would those residents
20 in the newly included area also be within the
21 resident class?

22 A Yes.

23 Q Are there any additions, modifications of
24 the resident class besides the one that you just
25 drew that you would impose on that particular

1 class?

2 A Not that I can think of.

3 Q Okay. Mr. Maines, did you ever consider
4 being a plaintiff in an individual case as
5 opposed to a class representative in a class
6 action?

7 A Yes.

8 Q Did you think that an individual case
9 might give you the chance at a speedier
10 resolution of your claim.

11 A Well, that's -- that's what I consulted
12 with Mr. Cooley regarding, were those kinds of
13 strategies.

14 Q What prompted you ultimately to sign onto
15 a class action rather than pursue your own
16 individual lawsuit?

17 MR. BYRNE: Object to form. I would
18 instruct you to the extent that decision was
19 based on verbal information or advice that you
20 got from Mr. Cooley or anyone else, I would just
21 caution you not to mention that advice
22 specifically. You can talk generally about it,
23 but I would stay away from conversations, advice
24 or information from counsel which you had in
25 private.

1 THE WITNESS: Sure.

2 I guess as things developed in terms
3 of information and all the attorneys were
4 showing up in Roane County and offering
5 representation, the complexity of this kind of
6 litigation looked like it would require some
7 level of expertise that I didn't think I could
8 afford on an individual basis nor could I commit
9 to the time necessary to respond to what I would
10 think would have been numerous interrogatories.
11 And so relative to a speedy trial, I don't think
12 it would have been as speedy as this.

13 BY MR. SHERK:

14 Q As I understand it, you are not pursuing
15 claims for present physical injuries in this
16 case?

17 A Correct.

18 Q And also as I understand it, you're not
19 pursuing claims for emotional distress in this
20 case?

21 A Yes.

22 Q You are, however, making the claim for
23 medical monitoring; is that right?

24 A Yes.

25 Q Did you ever have second thoughts and wish

1 that you had brought a case in which personal
2 injuries and emotional distress claims were
3 being pursued?

4 MR. BYRNE: Object to form.

5 You may answer.

6 THE WITNESS: No.

7 BY MR. SHERK:

8 Q Do you know a gentleman named Rick
9 Barrett?

10 A No.

11 Q That lives -- I'm sorry?

12 A No. Sorry, I didn't mean to interrupt.

13 Q That's okay. He lives at 2361 Sugar Grove
14 Valley Road. Don't know him?

15 A (No audible response.)

16 Q He has brought a claim which includes an
17 allegation of emotional distress suffered by
18 him.

19 Do you believe that there could be
20 people within the class area that have claims
21 for emotional distress arising out of the
22 failure of the dike at the TVA facility?

23 A Yes.

24 Q Do you know a couple named Danny and
25 Frankie Hawn?

1 A No.

2 Q They live at 2996 Sugar Grove Valley Road.

3 No? Don't know them either?

4 A (No audible response.)

5 Q They have both brought claims for
6 emotional distress.

7 Do you think that there are
8 individuals within property class area 1 that
9 have personal injuries arising out of the
10 failure of the dike on December 22, 2008?

11 A Define personal injury.

12 Q I would say a present physical injury
13 caused by the failure.

14 A Like a bruise, a wound, a broken bone?

15 Q Some palpable injury detectable by a
16 doctor.

17 A That you would treat medically?

18 Q Yes.

19 A Not unless it was subsequent to the spill.
20 I mean, if there is some hazard related to the
21 recovery that, you know, someone may have been
22 injured. Does that answer your question?

23 Q Are you receiving any kind of premium for
24 being a named class representative in this case?

25 A No.

1 Q Do you have friends and neighbors who have
2 other lawsuits against TVA arising from the
3 spill?

4 A Well, I'm not sure.

5 Q You just don't know one way or another?

6 A Well, I guess first of all, you would have
7 to define neighbor and friend. But I mean, I
8 had heard of other suits by other individuals
9 early on. I don't know if they're still in
10 play, if that's really what happened. But
11 that's just what I had heard.

12 Q It sounds like maybe you've heard, you
13 know, some scuttlebutt or hallway gossip about
14 potential litigation, but you don't know
15 anything definite or certain?

16 A Correct.

17 Q Or do you know with more certainty that
18 some folks that live by you or that you may know
19 have lawsuits against TVA?

20 A Not by me.

21 Q Do you know folks in other locations that
22 have different lawsuits against TVA?

23 A Yeah, I guess that's what I was referring
24 to, is I heard there's a gentleman up in Swan
25 Pond that had -- had a lawsuit that he had filed

1 individually early on. Now, it may have been
2 combined by now. I don't -- that's why I say I
3 haven't followed it, and I also know that Sail
4 Away Realty has a lawsuit.

5 Q The company itself has got a lawsuit?

6 A Correct.

7 Q And does Bob Giltane work at Sail Away?

8 A Yes.

9 Q Is he an owner of Sail Away?

10 A Yes.

11 Q Does he also have his own lawsuit against
12 TVA?

13 A I believe he does. That's --

14 Q Have you ever heard of the Auchard
15 lawsuit?

16 A No.

17 Q It's got roughly 300 plaintiffs in it.
18 You don't know anybody that's a part of that
19 lawsuit?

20 A No.

21 Q How about the Mays lawsuit?

22 A No.

23 Q Has anyone tried to persuade you to be
24 involved in a class action besides the one that
25 you're presently a part of?

1 A No.

2 Q Do you know anybody that has resolved
3 their claims against TVA?

4 A You mean anyone, including people that
5 were directly affected by the spill? Yes, I
6 know.

7 Q What individuals do you know that have
8 settled claims with TVA arising out of the
9 failure of the dike?

10 A Gosh, I'm going blank on her name.

11 John Singleton's mother. Give me
12 a minute, her name will come to me. But
13 she -- they purchased her home, and she bought
14 another residence in the Kingston area.

15 Q So are you generally aware that some
16 properties had been purchased by TVA, and that
17 owners' of those properties claims settled?

18 A Yes.

19 Q Have you explored with TVA a buyout or a
20 purchase of your property?

21 A I visited the outreach center three times,
22 I believe, to discuss the impact on property
23 values.

24 Q At that time, were you looking to sell or
25 were you just looking for information as to

1 whether or not the property had been decreased
2 in value as a consequence of the spill?

3 MR. BYRNE: Object to form.

4 You can answer.

5 THE WITNESS: Subsequent to the
6 spill, two retired TVA employees visited with me
7 at my house with language like, We're going to
8 make you whole, and, We're going to take care of
9 this, and things like that. And when it became
10 apparent that that wasn't what was going to
11 happen and they opened the outreach center, I
12 went down. I also had a property claim for
13 damage to my dog and met with Crawford & Company
14 down there.

15 Q Crawford & Company was the entity that was
16 retained to help adjust claims?

17 A As far as for property damage.

18 Q Where were you on December 22, 2008, when
19 the dike failed?

20 A I was home.

21 Q At the Kingston facility?

22 A Oh, sorry. I interrupted you again.

23 Q You were at home?

24 A Yes.

25 Q Was anyone with you?

1 A Actually, I think I had some guests. I
2 know Mary was there, my companion. We had -- it
3 was leading up to the holidays. I think we had
4 some people over, I think some people spent the
5 night.

6 Q Did you hear anything?

7 A No.

8 Q When did you learn of the failure of the
9 dike?

10 A Sometime on the morning of the 23rd.

11 Q Can you see the Kingston facility from
12 your house?

13 A I can see the stacks.

14 Q Just the two tall stacks?

15 A Right.

16 Q Nothing of the actual area where the ash
17 spilled?

18 A Not from my house.

19 Q Okay. When you heard about the spill,
20 what did you do?

21 A Started watching the television. There
22 was a lot of news about it, and there were
23 helicopters flying around and boats going up and
24 down the river.

25 Q Did you hop into your car and drive over

1 to take a look to see what happened?

2 A I think I might have gone over there the
3 next day.

4 Q So for the day of December 23, it sounds
5 as if you kept abreast of events by watching
6 television?

7 A Primarily. I guess, you know, neighbors,
8 and once things started happening because there
9 was a fair bit of activity on the initial
10 response.

11 Q So on December 24, Christmas Eve, you took
12 a drive over to the facility itself?

13 A I believe so, yeah.

14 Q What did you observe there?

15 A I went out Emory Road which is opposite
16 the spill --

17 Q It's across the Emory River from the
18 spill?

19 A Right, it's this road here.

20 -- and took a look across and seen
21 what had happened. It was pretty dramatic.

22 Q What were your, you know, initial thoughts
23 about what you might do, how this spill might
24 affect you in the week after the spill?

25 A Well, I know there was a lot of

1 speculation around it. TVA was just going to
2 buy everybody's house and then a lot of talk
3 about how it was going to be remediated. And a
4 lot of it was just speculation among people that
5 were directly involved about how it would be
6 resolved, and fair bit of discussion about
7 people being relocated and things like that were
8 happening as a result of the spill.

9 Q On the day of the spill and for the week
10 thereafter, were you actually living in your
11 home?

12 A Yes.

13 Q Okay. All right. Was your domestic
14 partner also living there at that time?

15 A Yeah, I think so.

16 Q Was there anyone else living at your
17 house, at 2555, on the date of the spill and for
18 the week thereafter?

19 A I'm sure my daughter was staying there.

20 Q That's your daughter Megan?

21 A Right.

22 Q Had she graduated from college at that
23 point?

24 A Yes.

25 Q In the aftermath of the spill, say within

1 the first month, were you given any instructions
2 by TVA or any other government agency about
3 things to do or not do?

4 A No.

5 Q Okay. Did you receive any instructions or
6 advice about drinking water?

7 A Not specifically. I mean, I think the
8 question was asked did I have a well. Down
9 there, they were testing wells.

10 Q And do you?

11 A No.

12 Q Did you receive any advice or instructions
13 about changing the air filters at your house?

14 A No.

15 Q Okay. Did you receive any advice or
16 instruction about roads that were closed or
17 alternative routes around your house that you
18 needed to take because of the spill?

19 A Not my house, no.

20 Q Okay. Were you aware that in the month
21 after the spill and for a time thereafter that
22 there were quite a bit of -- or quite a number
23 of vehicles at the site of the spill that were
24 working to carry away ash and bring in rock and
25 that sort of thing?

1 A Yes.

2 Q Okay. Do you have any friends on Swan
3 Pond Circle or in that area?

4 A No.

5 Q Okay. Have you spoken with anybody in
6 that area about their experiences after the
7 spill in connection with the cleanup operations?

8 A Yes.

9 Q What have those conversations consisted
10 of?

11 A What was going on at the time in terms
12 of -- I guess first thing I heard was there had
13 been some barricades set up. I guess there was
14 some orange filter fabric and that there was
15 some remapping -- after the Rock Weir Dam was
16 put in, that there was some remapping done to
17 change the elevation of the flood plain.

18 Q Anything else that you can remember?

19 A Not specifically, no.

20 Q How long after the spill did you remain at
21 your house at 2155?

22 A I stayed there until February.

23 Q February of 2009?

24 A Correct.

25 Q And what happened then?

1 A I rented my house to TVA.

2 Q How did that all come about?

3 A The same, John Singleton, his mother's
4 house had ash on it. I can't remember -- I've
5 drawn a complete blank on his mother's name, I
6 know her pretty well. I want to say Eleanor,
7 but that's not it.

8 Q Is it Erlene Gregory?

9 A Yeah, Erlene Gregory. Thank you very
10 much.

11 At any rate, they were trying to
12 place her. She had a couple small dogs, an
13 elderly lady, and apparently were having some
14 problems finding something acceptable for her.
15 She wanted to still be on the water. And John
16 and I are friends, and he asked me if I'd be
17 interested in doing that.

18 So we developed a number to rent the
19 house furnished with utilities paid and all
20 that, because it was short term, six months was
21 the period of time, and they went away. I guess
22 I thought they didn't accept it. But then a
23 couple of weeks later, I was contacted by TVA
24 again to see if it was still available, and I
25 made arrangements for her to occupy the house.

1 Q Prior to the spill, were you looking for
2 opportunities to rent your house?
3 A No.
4 Q So this -- this arose -- this opportunity
5 arose, and it made sense to you?
6 A Correct.
7 Q Okay. Did that consist of your literally
8 moving out of your own home for a while?
9 A Yes.
10 Q Where did you go?
11 A 841 Nelson Drive.
12 Q Where is 841 Nelson Drive?
13 A It's in Kingston.
14 Q Kingston area.
15 A It's on this -- probably on this map.
16 It's right -- let's see. Right there.
17 Q Could you mark that in blue and label it,
18 please, that spot?
19 A (Witness complies.)
20 Q Is that the home of your domestic partner?
21 A Yes.
22 Q Her name is Mary --
23 A Colyer.
24 Q How long were you at Mary Colyer's house?
25 A Till August.

1 Q August of 2009?

2 A Well, actually, September, I guess. They
3 extended for one month.

4 Q Okay. Mr. Maines, you're being handed
5 Deposition Exhibit No. 6. I'll represent to you
6 that this is a document entitled, "Lease
7 Agreement."

8 A Correct.

9 (Marked Exhibit 6.)

10 BY MR. SHERK:

11 Q That was provided to us by your counsel.
12 It bears Bates Nos. 275 through 281.

13 Let me ask you this, Mr. Maines: Is
14 this a copy of the lease agreement that you
15 entered into with TVA for the rental of your
16 house at 2155 Sugar Grove Valley Road?

17 A Yes, it appears to be.

18 Q Okay. While you were gone from February
19 of 2009 to September of 2009, did you come back
20 to the house to keep tabs on how things were
21 going?

22 A I had a lot of contact with Ms. Gregory.

23 Q How was that relationship?

24 A I would call her high maintenance.

25 Q She's your friend's mother?

1 A And she just always had -- very friendly
2 don't get me wrong, but always had something she
3 wanted to discuss or ask about.

4 Q How many square feet is your house?

5 A Total is about 3,400.

6 Q And it's got river views; correct?

7 A Yes.

8 Q It's up on a kind of a bluff?

9 A No, it actually sits below the road but
10 above the water to where you can --

11 Q So you can sort of see out?

12 A Well, you can't see the steam plant, but
13 you can see the stacks.

14 Q No, but you can see the river and the
15 surrounding hills and that sort of thing?

16 A Correct.

17 Q How did her house compare to your house?

18 A Well, I didn't see her house prior to
19 this. I had never been there. It was
20 significantly bigger, but the lease, if you'll
21 notice, was just for the upper two floors that
22 way, I was able to move my stuff, I just moved
23 it downstairs. She could have the upper floors,
24 so I guess that made it comparable to what she
25 was leaving.

1 Q Spacewise?

2 A Correct.

3 Q Mr. Maines, you've been handed Deposition
4 Exhibit No. 7, and I'll represent to you that
5 this is a letter dated June 24, 2009, that we
6 received from your counsel. And it's Bates
7 numbered 310.

8 Do you see that?

9 A Yes.

10 (Marked Exhibit 7.)

11 BY MR. SHERK:

12 Q Is this a letter that pertains to the
13 termination of the rental of your property?

14 A Yes.

15 Q I see here, though, that in the document
16 it purports to terminate the rental in August of
17 2009?

18 A Right.

19 Q And in fact, you testified that it
20 actually went on until September?

21 A No, you asked when I moved back in.

22 Q So this looks like it could be the --

23 A This is about right, yeah.

24 Q When you moved back into your house, were
25 there problems?

1 A Yes.

2 Q What were those?

3 A She smoked in the house, which had never
4 been done before. And her dogs were apparently
5 incontinent in the house, so there were issues
6 like that. For whatever reason, the commodes
7 were knocked off their bolts. She is very
8 unstable. I think just -- she landed. And so I
9 had to have some things like that repaired. She
10 had a heart attack while she was there. She was
11 infirmed a week later.

12 Q So when you returned to your house, you
13 saw that there had been damage done?

14 A Correct.

15 Q And did you negotiate a settlement with
16 TVA to take care of that damage?

17 A Yes.

18 Q Were those negotiations amicable?

19 A Yes.

20 Q You've been handed Exhibit No. 8, and I'll
21 represent to you that that's a letter dated
22 September 1, 2009, that we received from your
23 counsel. The Bates number is 317. This letter
24 suggests that a settlement was reached where you
25 were paid \$6,684 for repairs of your house?

1 A Correct.

2 (Marked Exhibit 8.)

3 BY MR. SHERK:

4 Q Is that right?

5 What kind of repairs were undertaken?

6 A I had to replace the carpeting upstairs
7 and on the steps, and I had to have all of the
8 walls washed.

9 Q Because of the cigarette smoke?

10 A All the surfaces in the house because the
11 cigarette smoke. That was the primary.

12 Q Did that work?

13 A Yeah. Actually, we put a -- it was ozone
14 machines in for three days that also neutralize.
15 And that's one of the reasons I wasn't in the
16 house, you cannot when you're doing an ozone
17 treatment.

18 Q So for three days?

19 A Those things run and they somehow
20 neutralize odors. They are commonly used in the
21 disaster business for people who have damaged
22 homes.

23 Q So carpets replaced, all the walls and
24 surfaces washed, ozone treatment conducted.

25 Anything else that took place?

1 A No, there were some things missing, some
2 personal property that apparently her movers
3 took with them. I got some things back, but
4 most of it I never got back.

5 Q So you were compensated for those things?

6 A The ones I knew of. At some point, you
7 just got to move on.

8 Q Okay. Well, I think we're at a point that
9 we could make take a five-minute break if that's
10 okay with the group.

11 MR. BYRNE: Fine with me.

12 (Recess.)

13 BY MR. SHERK:

14 Q Mr. Maines, we're back on the record after
15 a break.

16 I have just a few questions
17 clarifying a couple things that we talked about
18 earlier, then we'll launch into a whole new
19 area.

20 Okay?

21 A (No audible response.)

22 Q One thing I want to make sure about is
23 that I'm certain that you're claiming in this
24 lawsuit only as it pertains to the property at
25 2155. Are there other properties that you

1 possess that are also the subject of this
2 lawsuit that we should be talking about?

3 A No.

4 Q After you leased the -- your house to TVA,
5 what happened to your daughter Megan?

6 A She actually was living in Cleveland at
7 the time. She was up for the holidays while she
8 was there when the spill occurred.

9 Q She just went back to Cleveland then?

10 A Correct.

11 Q Okay. If you look -- the lease which is
12 Exhibit 6, it has it starting in January?

13 A Yes.

14 Q Is that when you moved out, or was it a
15 little bit later than that?

16 A It was right in that window. I think
17 there was some -- maybe some days after that
18 lease was executed, but shortly after that
19 because they were anxious to place her,
20 Ms. Gregory.

21 Q Ms. Erlene Gregory, okay.

22 So from -- so from January of 2009
23 until September of 2009, you did not live at
24 your house?

25 A Right.

1 Q And you were living outside the class
2 area, the geographic class area of property
3 class 1?

4 A As you've got it marked now, yes.

5 Q If you look at Exhibit 5 which is the
6 class B map, it's the little one, are you able
7 to locate Waterfront Plantation on that map?

8 A I can approximate it.

9 Q Okay. How about marking it with a red
10 Sharpie.

11 A (Witness complies.)

12 Q Would Highland Reserve also appear on this
13 map?

14 A (Witness complies.)

15 Q It looks as if Waterfront Plantation would
16 be subsumed within property class 2?

17 A Yes.

18 Q Is that how it appears to you? And as I
19 understand it, that is property that is on the
20 river?

21 A Yes.

22 Q It has river views; correct?

23 A Right, it has 1,600 feet of frontage or
24 something like that.

25 Q In terms of Highland Reserve, if property

1 class 2 were modified to include the 10-mile
2 stretch of the Tennessee River --

3 A Uh-huh.

4 Q -- as we've discussed earlier, would
5 Highland Reserve then be encompassed within
6 property class 2?

7 A I don't think so.

8 Q Because that's farther off the river?

9 A It has an access point, but it's buffered
10 by some other properties prior to -- sort of
11 like a flag that goes back to connect to have
12 lake access, but it's not like this waterfront.

13 Q Okay. We've talked about the rental of
14 your house and the damage that occurred that got
15 resolved.

16 I believe that you also mentioned
17 earlier that your dock was damaged?

18 A Correct.

19 Q What happened to your dock?

20 A Actually, I guess that's how I just -- the
21 morning of the 23rd, I had a boat tied to the
22 dock. When I got up and looked down, the boat
23 was out of position, so I went down and
24 investigated, and it had broken loose from its
25 mooring. And I thought it was weather-related,

1 the wind or something had broken it loose. And
2 subsequently, I found out that there was the
3 wave and -- and the ash spill, and it was caused
4 by that.

5 Q Okay. So did the boat -- did the ropes
6 that held the boat onto the dock break?

7 A No, the boat was attached to the dock.
8 The dock that anchors to the shore broke, and it
9 sort of pivoted around. It didn't hurt anything
10 other than you couldn't get on the dock anymore.

11 Q What, then, did you do to resolve the
12 damage to your dock?

13 A Well, I took -- sent a couple carpenters
14 down there that day to swing it back and around
15 connect it temporarily.

16 Q And they billed you for that work?

17 A No, this was prior to -- no, they worked
18 for me. They -- I just instructed them to go
19 fix it.

20 Q Okay. Now, after that, then did you make
21 a claim with TVA?

22 A Yes.

23 Q How did that process work?

24 A I went to the outreach center and met with
25 one individual from Crawford, and he went and

1 photographed the dock and called back with a
2 claim amount, and actually, I think he cut a
3 check that day. They were writing checks on the
4 spot, if I recall.

5 Q Was that check sufficient to --

6 A Yes.

7 Q -- cover that?

8 Mr. Maines, you've been handed
9 Deposition Exhibit No. 9, and I'll represent to
10 you that is a document entitled "Release of All
11 Claims." We received this document from your
12 counsel, and it's Bates No. 181.

13 Do you see that document?

14 A Yes.

15 (Marked Exhibit 9.)

16 BY MR. SHERK:

17 Q Is this the release that you signed as it
18 pertains to the damage to your dock?

19 A Yes.

20 Q And the amount you were paid was
21 \$4,554.58?

22 A Correct.

23 Q Were your negotiations amicable with
24 respect to this claim on the dock?

25 A Yes.

1 Q What are you seeking in this lawsuit?

2 A Pardon?

3 Q What are you seeking in this lawsuit?

4 A Recovery of the loss of value.

5 Q Loss of value to your property?

6 A Correct.

7 Q Sorry, I interrupted you.

8 A That's all right.

9 Recovery loss of value, the
10 interference with my use of the lake for the
11 long-term I guess, I guess the potential
12 long-term health risk.

13 Q Anything else that you believe that you
14 are seeking in this case?

15 A Well, I guess it's -- you know, it's been
16 inconvenient that we've had to come to this to
17 get some sort of adjustment, hopefully. So the
18 inconvenience of going through litigation.

19 Q All right. Are you asking TVA to do
20 anything to your property?

21 A You mean --

22 Q Clean it up?

23 A -- paint it or something?

24 Q Yeah.

25 A No.

1 Q Would you advocate shutting TVA down?

2 A As an entity?

3 Q Uh-huh.

4 A No.

5 Q Let's zero in on your property at 2155
6 Sugar Grove Valley Road.

7 I believe that you testified that you
8 purchased that property in 1989?

9 A In '88 or '89.

10 Q Okay. All right. Have you used that
11 property for residential purposes during the
12 time that you've lived there?

13 A Yes.

14 Q Okay. And we've talked about the fact
15 that you lived there with your second wife for
16 about -- quite some time?

17 A Correct.

18 Q And your children from time to time as
19 well?

20 A They lived there -- they grew up there.

21 Q Okay. And you are currently occupying
22 that property?

23 A Yes.

24 Q How did you choose the location at 2155?

25 A It's kind of a long answer, I guess. But

1 I had been using this portion of the river for a
2 number of years, actually. I had a dock,
3 actually, on the Clinch River, and there's a
4 small sand island upstream of the spill that
5 worked very well for children because it's
6 shallow and it's sandy, and we would go up and
7 spend sometimes Saturday and Sunday up there.
8 But I had built a home for a gentleman named
9 Tony Schaffhauser in Oak Ridge who owned the
10 property, and he's the one that -- he decided to
11 liquidate it and told me about it. I went down
12 and looked at it, and one thing led to another
13 and I ended up buying it from him.

14 Q So the property that you would recreate on
15 with your kids is on the Clinch?

16 A No, it's on the Emory.

17 Q It was up from the Emory?

18 A Above the spill, let's see.

19 Q Would that be around mile marker 4?

20 A Right, in the area just below the
21 Sportsman's Club, right in this area.

22 Q There's a little -- there's a shallow
23 point there where there's a -- like little
24 island?

25 A Yeah, it actually varies from year to

1 year, but it's known as the sandbar commonly in
2 the area, and a lot of people congregate there
3 play volleyball. Like I said, shallow water
4 where children can play without a real risk of
5 drowning.

6 Q When you talk about interference with your
7 use of the lake because of the spill --

8 A Correct.

9 Q Let's unpack that. What are you talking
10 about?

11 A Well, a good portion of this is my
12 favorite fishing ground. And I haven't been in
13 the water since the spill. I used to swim off
14 my dock frequently. I had a boat in the water.
15 I mean it was -- so you get in the boat and go.
16 You know, you could go on a daily basis if you'd
17 like. You could go up to sand island and swim
18 in the evenings, things like that. So that's
19 how it's interfered.

20 The boat traffic is down
21 significantly. I mean, even now I think this
22 no-wake zone that are maintaining in the
23 recovery areas makes folks reluctant to go, and
24 I believe the Rock Weir has somehow interfered
25 with the currents around that sand island. It's

1 much smaller than it used to be.

2 Q So you have not been on your boat since
3 the spill?

4 A I've been on my boat. I've not been in
5 the water.

6 Q You have not taken a swim?

7 A Correct.

8 Q Have you gone to another location on the
9 Clinch, for example, and taken a swim since the
10 spill?

11 A No.

12 Q You just haven't been in the river at all?

13 A No. I was south of -- in that area near
14 Waterfront Plantation. I think I was in the
15 water once.

16 Q And that's it?

17 A Yes.

18 Q So getting back to why you purchased this
19 particular house, that -- it was in the
20 proximity to the lake in an area that you --
21 that you preferred?

22 A Correct.

23 Q Was it also close to work?

24 A Well, as it turned out it was because I
25 used to work here. You know, you can see it if

1 you look out the window. It also was a smaller
2 community for my children. I wanted sort of a
3 small town feature instead of Oak Ridge, and I'm
4 sort of an opportunistic, willing seller.

5 Q Did you buy the land with the house on it?

6 A It had a house on it.

7 Q Did you remodel that house?

8 A Several times.

9 Q When you bought the property, you were
10 aware of its proximity to TVA?

11 A Yes.

12 Q Okay. How long did it take you to go from
13 your residence to the site of the dike failure
14 by boat?

15 A Depending on the boat, a minute.

16 Q All right. And if you had to drive by car
17 to the TVA facility, how long would it take?

18 A Which part of it?

19 Q Let's say the part where the stacks are?

20 A 15 minutes.

21 Q What bridge would you cross?

22 A You could use either the I-40 bridge or
23 the Highway 70 bridge. The quickest would be
24 the Highway 70 bridge.

25 Q How long would it take you to get to the

1 point of the dike failure, in that area, say the
2 area of Swan Pond Circle?

3 A By car?

4 Q Yes.

5 A Well, that's an additional 10 minutes, at
6 least, so 25 minutes from my house.

7 Q How would you describe the neighborhood
8 where your house is located?

9 A I call it semi-suburban, I guess. Over
10 the years it's developed. When I moved there,
11 all the lots were undeveloped. The properties
12 are fairly wide where I'm at, so there's some
13 room between each of the houses. It's not very
14 congested.

15 Q Does it have a rural feel at all?

16 A Yes -- or it did. I guess it's -- what
17 happened is about the same time I bought the
18 property, they were constructing the center
19 bridge. And prior to that, it was a ferry, and
20 it really changed the nature of traffic on the
21 roadway when the bridge was completed because it
22 became a route to Oliver Springs, that and as I
23 said, over the years -- none of the property in
24 this area was developed.

25 Q You're looking at the Emory River Road

1 area?

2 A Right. Well, this area was developed, but
3 this came in later, and a lot of the lots along
4 where I live were vacant still, where over the
5 years, little by little they've built out.

6 Q How large is your lot?

7 A It's 150-wide by 175- or 200-deep,
8 something like that.

9 Q How would you describe the topography of
10 your lot, moving from the river then up your
11 lot?

12 A It's about 18 vertical feet from the level
13 of the river to my floor level, and the house
14 sits below the road, below Sugar Grove Valley
15 Road, sloping, I guess, to the lake.

16 Q So your lot slopes down to the lake?

17 A Correct.

18 Q How do you get from your house to the
19 dock?

20 A I have a wooden boardwalk and steps.

21 Q So you walk down the boardwalk and then
22 down the steps and you're on your dock?

23 A Correct.

24 Q How close is your house to the river? Do
25 you know?

1 A Well, I can estimate. 150 feet to the
2 water's edge, I guess.

3 Q What year was your house built?

4 A Initially, it would be on one of the
5 appraisals, I believe. I would say '78 or '80,
6 in that neighborhood.

7 Q And you've remodeled it on at least a
8 couple of occasions?

9 A Added on to it significantly.

10 Q How many feet does your house presently
11 encompass?

12 A Square feet?

13 Q Correct.

14 A Up and down, 3,400 plus a three-car
15 garage.

16 Q It's a three-story house?

17 A It's two stories with a basement.

18 Q Is it a wood house?

19 A Wood and stone, yes.

20 Q Wood and stone. How many bedrooms?

21 A Four.

22 Q And how many bathrooms?

23 A Three and a half.

24 Q Do you have a pool on the property?

25 A No.

1 Q What is your foundation made of?
2 A Concrete masonry units.
3 Q Have you ever had any foundation problems?
4 A No.
5 Q Is it a finished basement?
6 A Partially.
7 Q Is it used as an office or storage
8 or --
9 A It has a bedroom and a recreation room,
10 and a -- a spare utility room, actually.
11 Q Is there also part of it you can store
12 stuff in?
13 A Yes.
14 Q Okay. Has your house ever been tested for
15 radon?
16 A No.
17 Q In terms of the exterior of your house, do
18 you have a porch or a patio on it?
19 A Yes.
20 Q Which one?
21 A I have a covered wooden porch. Actually,
22 I have two covered wooden porches.
23 Q Are those on the back of the house?
24 A Yes, on the lake side.
25 Q Are the windows original?

1 A No.

2 Q Did you replace the windows?

3 A Yes.

4 Q When did those get replaced?

5 A Shortly after I moved in.

6 Q Early '90s?

7 A Yeah.

8 Q Are they tight-fitting windows?

9 A Yes.

10 Q Is it a central air conditioned house?

11 A Yes.

12 Q No window units?

13 A No.

14 Q What sort of flooring do you have in your

15 house?

16 A The main floor has hardwood and ceramic

17 tile and some carpeting in the bedroom. And the

18 upper floors have carpeting.

19 Q I believe you testified that you -- your

20 source of water is not a well?

21 A Correct.

22 Q What utility are you attached to?

23 A Cumberland Utility District.

24 Q Can you give us a thumbnail sketch of the

25 improvements that you've made to your house

1 since purchasing it?

2 A The house was a Jim Walters -- I don't
3 know if you're familiar with -- it's a package.
4 They sell kit homes where they will take it to
5 any level of completion that you wanted, but
6 they're very simple floorplans. It was a
7 24-by-48 ranch over a basement. I added a
8 fireplace, enlarged the living room, added a
9 kitchen and dining room and laundry room and a
10 three-car garage and a second floor that
11 included two bedrooms and a bath and the covered
12 porch, and then replaced all the exterior
13 surfaces so it looked like one construction.

14 Q Very significant redo?

15 A Well, it was in a couple of phases, but,
16 yes.

17 Q Did you hire this work out, or were you
18 able to do some of it yourself?

19 A I was in the business, so I hired some and
20 did some.

21 Q When was the last home-improvement project
22 you completed?

23 A 2008.

24 Q Pre-spill?

25 A Yes.

1 Q How would you compare your home to other
2 ones in your immediate neighborhood?
3 A Probably on the upper end.
4 Q Larger?
5 A Larger, yeah.
6 Q Better maintained?
7 A Yeah, better architecture, but I drew it
8 so --
9 Q I think I asked you this. Have you ever
10 run any kind of business out of your home?
11 A No.
12 Q Has anyone run any kind of business out of
13 your home?
14 A No.
15 Q Okay. Your house, then, has never been
16 used for any commercial purposes like a shop?
17 A Oh, no. I mean I have an office there,
18 but it's my office, my private office.
19 Q Do you have pets?
20 A I have a visitor. My daughter's dog. It
21 just never seems to leave.
22 Q Has the dog been there for a while?
23 A Just since she moved back from Cleveland
24 in January, so since January.
25 Q Of?

1 A This year.

2 Q Okay. Where did you grow up?

3 A Until I was in 8th grade, I lived in Blue
4 Ash, Ohio.

5 Q And from there you moved to Tennessee?

6 A Correct. My mother remarried and moved to
7 Oak Ridge and then to Coalfield.

8 Q During the course of your life, have you
9 ever lived by a manufacturing plant of any sort?

10 A No.

11 Q How about a chemical plant?

12 A No.

13 Q Rubber or steel or tire manufacturer?

14 A No.

15 Q A shipyard?

16 A No.

17 Q Ever lived on a landfill or by a landfill?

18 A Not to my knowledge.

19 Q Have you ever lived near a waste treatment
20 center?

21 A No.

22 Q Have any of the places that you've lived
23 in been industrial in nature?

24 A You mean an industrial neighborhood, for
25 example?

1 Q Yes.

2 A No.

3 Q Did you ever live on a farm?

4 A Yes.

5 Q When you were in Ohio?

6 A Yes.

7 Q So you grew up on a farm?

8 A No.

9 Q During what portion of your life did you

10 live on a farm?

11 A I lived with my father when I was 15, and

12 he had a farm.

13 Q How long did you live on a farm?

14 A About a year.

15 Q Did he grow crops?

16 A No.

17 Q He just had some land?

18 A He kept horses.

19 Q So it was a horse farm?

20 A Yes.

21 Q Since moving into your house in about

22 1989, how much time would you generally spend

23 there during the working week?

24 A In hours?

25 Q Sketch out a day. Are you gone most of

1 your conscious hours, or do you work partly out
2 of your house?

3 A Depending on the level of activity, I
4 would be gone eight to twelve hours a day, five
5 or six days a week, generally.

6 Q Has the -- the Kingston spill modified at
7 all your daily work life in terms of time spent
8 at home?

9 A No.

10 Q How about a typical weekend, how -- since
11 you moved in your house, how would you typically
12 spend your time?

13 A Now or pre-spill?

14 Q Let's try pre-spill.

15 A Typically, I would fish every Sunday
16 morning, mostly because the lake's pretty much
17 deserted until church lets out and I had time to
18 do it then. And sometimes I would later do some
19 recreational boating if one of the kids were
20 around or visit the sand island or even venture
21 further down the lake. I'd say more weekends
22 than not, that would be -- usually Saturday
23 spent on maintenance frankly, mowing grass and
24 cleaning gutters and doing what everybody else
25 has to do.

1 Q Has your Saturday maintenance duties
2 pretty much stayed the same since the spill?

3 A Yes.

4 Q But I understand from your earlier
5 testimony that your river-related activities
6 have been affected by the spill?

7 A Correct.

8 Q Have you been fishing since the spill?

9 A Once.

10 Q I may have asked you this, and if I have,
11 I'm sorry. How has your boating been affected?

12 A My boat hasn't been out of the garage in a
13 year. I had a boat that was attached to my dock
14 that I sold, so if that answers your question.

15 Q Is your dock okay?

16 A Well, not now. But that's not related to
17 the spill.

18 Q What happened to that?

19 A It's the same boat. It was just too big
20 for the dock. That's one of the reasons I sold
21 it, and I think it's part of -- we had another
22 large wind event that blew limbs out and
23 everything, but that broke it loose and some
24 more severe damage, and unfortunately I have not
25 physically been able to work on it.

1 Q So the dock's in rough shape right now?

2 A Right. But it doesn't have a boat tied to
3 it and I'm not using it, so hopefully this fall
4 when the water goes down I'll be able to fix it.

5 Q Okay. Do you work much in your home
6 study, your home office?

7 A Occasionally.

8 Q In the evenings?

9 A Yeah. Internet, things like that.

10 Q Do you do the yard work at your house, the
11 grass?

12 A Well, not currently. I had open heart
13 surgery on May 25.

14 Q Of this year?

15 A Correct, and I was released Friday to
16 start doing things, so I haven't been able to
17 mow the grass this year.

18 Q Can we go off the record a second.

19 (Off the record.)

20 BY MR. SHERK:

21 Q We are back on the record.

22 We were talking about yard work at
23 your house. Until your surgery in May of this
24 year, were you typically the person that would
25 take care of the outside of your house?

1 A Yeah. Sometimes I hired a mowing guy, but
2 everything else I did myself.

3 Q Did the spill in any way impact your doing
4 yard work or taking care of the outside of your
5 house?

6 A No.

7 Q Have you ever had a garden?

8 A Yes.

9 Q Do you still have a garden?

10 A No.

11 Q During what period of time did you have an
12 outside garden?

13 A Well, from about the time the house was
14 occupied by me until, I would say, 2004.

15 Q Was your ex-wife a gardener?

16 A Yes.

17 Q Was that kind of her deal, her garden?

18 A We both worked on it, but the neighbor
19 planted some hemlock trees, but they grew so
20 tall they cut the sun off, so --

21 Q During the course of the time you spent at
22 2155, have you done a lot of entertaining?

23 A At different times.

24 Q Would these be predominantly outdoor
25 events or indoor events?

1 A Sort of both.

2 Q Barbecues on the deck, that kind of thing?

3 A Yes.

4 Q I believe you said you had folks over for

5 the holidays in 2008?

6 A Right.

7 Q I imagine you have your children over from

8 time to time?

9 A Correct.

10 Q Just the ordinary sorts of things?

11 A Yes.

12 Q We know you had, it sounds like, a large

13 boat in 2008?

14 A Correct.

15 Q And that boat has been sold?

16 A Right.

17 Q But you have another boat?

18 A Yes.

19 Q And that one is in the garage?

20 A It stays in the garage.

21 Q But you may put it in this fall if

22 possible?

23 A Yes, it's very easy.

24 Q Once the dock gets in?

25 A Well, it doesn't need the dock. Frankly,

1 it's a fishing boat, and it's prime prey for
2 thieves if you leave a boat like that in the
3 water. It's just easier to maintain in the
4 garage and keep the batteries charged and all
5 those things, keep it secured.

6 Q Do you have a jet ski?

7 A No.

8 Q A kayak?

9 A No.

10 Q Canoe?

11 A No, I have a small jon boat.

12 Q Does anybody use your property for hunting
13 or trapping?

14 A No.

15 Q How about for fishing?

16 A Not now, but they have fished off the
17 dock. People would come fish off the dock.

18 Q Was that friends and family?

19 A Yes.

20 Q Just couldn't be anybody?

21 A Right. No.

22 Q And has there been fishing off the dock
23 since the spill?

24 A No.

25 Q Are you a hunter?

1 A I used to bird hunt some, duck hunt, but
2 not in years.

3 Q No more?

4 A (No audible response.)

5 Q Mr. Maines, you've been handed Exhibit
6 No. 10. I'll represent to you this is a
7 photograph that was taken July 21, 2010.

8 Do you recognize the image on this
9 photograph?

10 A Yes.

11 (Marked Exhibit 10.)

12 BY MR. SHERK:

13 Q What does it depict?

14 A It's a picture of my house.

15 Q Is this a picture of your house from the
16 road?

17 A Yes.

18 Q And by looking at Exhibit 10, you can tell
19 that the house is made of wood and stone;
20 correct?

21 A Correct.

22 Q Okay. In terms of the parts of your house
23 that you have added, those -- would those be the
24 garage on the left?

25 A Yes.

1 Q Left-hand side of the picture, and the
2 whole second floor?

3 A Yes.

4 Q Anything else that you can see in this
5 photograph?

6 A Well, it's obscured by the tree, but
7 everything to the left of the tree was added on.

8 Q So this -- your property, if you're
9 standing on the road looking down, you'd see
10 your house, and then below your house is the
11 lawn down to the river?

12 A Correct.

13 Q Okay. Mr. Maines, you've been handed
14 Exhibit No. 11. I'll represent to you that this
15 is another photograph taken July 21, 2010.

16 Do you recognize what is depicted on
17 that photograph?

18 A It's the view of my house from the lake.

19 (Marked Exhibit 11.)

20 BY MR. SHERK:

21 Q Looking at this photograph, can you see at
22 least one wooden deck?

23 A Yes.

24 Q It's off the back of your house?

25 A Yeah.

1 Q Your lot is fairly well wooded, it looks
2 like. Do you agree with that?

3 A Yes.

4 Q So do you do more weed eating than mowing
5 back here?

6 A No. There's still a fairly -- there's
7 significant mowing in that area, it's just
8 not -- hard to see from this photograph.

9 Q And in this photograph, it looks like
10 there's a little erosion?

11 A There is.

12 Q Leading down -- what I assume to be down
13 to the water; correct?

14 A Correct.

15 Q Pretty good drop-off there. How steep is
16 that?

17 A It's vertical.

18 Q Okay.

19 A This is a conservation area, so the trees
20 can't be removed and you can't have a seawall.
21 You could use riprap that I don't like, but it's
22 been stabilized by moving river rock up along
23 the base of the washout.

24 Q So that will probably impede any further
25 erosion?

1 A Hopefully. There were some black willows
2 that were moved over from the other side of the
3 river that will establish themselves.

4 Q Do you know where your property line is?

5 A Approximately.

6 Q Okay. Can you -- could you draw your
7 property line on this Exhibit 11?

8 A No.

9 Q Okay.

10 A I can't see it on here.

11 Q Right. No, I appreciate that.

12 Mr. Maines, you've been handed
13 Deposition Exhibit No. 12, and I'll represent to
14 you that this is another photograph taken
15 July 21, 2010.

16 A Correct.

17 (Marked Exhibit 12.)

18 BY MR. SHERK:

19 Q What does this photograph depict?

20 A It's my dock.

21 Q Is that your boat?

22 A Yeah. Well, it was.

23 Q Is that the one that got sold?

24 A Yes.

25 Q So it looks like your dock has got -- it

1 looks like it's damaged to some extent?

2 A Correct.

3 Q Is the walkway up to your house also
4 damaged?

5 A Just at the last flight of steps.

6 Q Was that because of the weather event that
7 you talked about earlier?

8 A Correct.

9 Q And it looks like there may be a canoe or
10 something on the walkway?

11 A That's the jon boat I referred to.

12 Q Now, has that been in the water since the
13 spill?

14 A No.

15 Q That's just where it stays?

16 A It was moved off of another property, and
17 I had to put it somewhere.

18 Q Oh, okay.

19 So this photograph suggests that
20 you -- from your dock, as you said, you walk up
21 a flight of wooden stairs and then on a walkway
22 up --

23 A There's actually several flights and
24 landings.

25 Q Okay. Up to the --

1 A Correct.

2 Q Okay.

3 Mr. Maines, do you believe that any
4 fly ash got on your property because of the
5 failure of the dike on December 22, 2008?

6 A Well, not by water if that's your
7 question.

8 Q Yes.

9 A Then, no.

10 Q Do you believe fly ash got on your
11 property in some other form or fashion?

12 A I think they had some dispersement before
13 they got control of the dust.

14 Q Why do you say that?

15 A Because when you get up and it's on your
16 car windshield, it came from somewhere.

17 Q Okay. When did you see dust on your car
18 windshield?

19 A It was in the early portion, prior to all
20 that straw that they hauled in and the
21 hydromulch.

22 Q Do you know at what point after the spill
23 the helicopters began dropping the straw and the
24 other material?

25 A Correct, yes.

1 Q Do you know when that occurred?

2 A It had to have been in February. No, it

3 actually was before that. It was in early

4 January.

5 Q Could you see the helicopters from your

6 house?

7 A Sure.

8 Q And you could hear them?

9 A Yeah.

10 Q Were you able to see them actually drop

11 the straw and the other material on the area

12 that was being treated?

13 A Yes.

14 Q Oh, you could. Okay.

15 A Depending on where they were dropping it,

16 but yeah.

17 Q On how many instances did you see the dust

18 on your car?

19 A Twice that I can recall. Once that I

20 had -- I went and had the car washed. Actually,

21 it's a truck, but --

22 Q Did -- so you took it someplace else and

23 had the dust washed off?

24 A Yes, just an automatic car wash.

25 Q How do you know that it was fly ash?

1 A I don't. I just don't know what else it
2 would be.

3 Q You never had it tested?

4 A No.

5 Q Were the two instances of having dust on
6 your car closely related in time?

7 A It seemed like it was over a couple -- a
8 week period, yeah.

9 Q Other than those two instances, are there
10 other occasions where you believed that fly ash
11 got on your property?

12 A Not that I know of.

13 Q And these would have been in the time
14 frame of, what, January 2009 or thereabouts?

15 A Well, it would have had to have been
16 because I moved out before the end of January,
17 so it was in that window.

18 Q Okay.

19 One more photograph, Mr. Maines. It
20 is Exhibit 13. This is a photograph that I
21 represent to you was taken January 9, 2009.

22 Do you recognize the image in that
23 photograph?

24 A Yeah, that's my house from the air.

25 (Marked Exhibit 13.)

1 BY MR. SHERK:

2 Q This shows your house right there in the
3 middle of the photograph?

4 A Yes.

5 Q Can you circle that in red?

6 A Circle the house?

7 Q Yeah, with the red Sharpie.

8 A (Witness complies.)

9 Q All right. Is that your dock on the river
10 to the left of the house?

11 A Yes.

12 Q Mr. Maines, do you live on a peninsula of
13 sorts?

14 A No, it's a bend in the river.

15 Q It's a bend, okay.

16 Mr. Maines, you've been handed
17 Deposition Exhibit No. 14. I'll represent to
18 you this is a document entitled "Warranty Deed."

19 A Yes.

20 (Marked Exhibit 14.)

21 BY MR. SHERK:

22 Q We received this from your counsel. It's
23 Bates numbered 180 -- 108 and 109, pardon me.

24 Do you recognize this document?

25 A Yes.

1 Q It's a warranty deed dated August 28,
2 1989?

3 A Correct.

4 Q So you're on target as to the date you
5 purchased your house?

6 A Yes.

7 Q Okay. And the purchasers of this house
8 are you and your wife, Gerd Maines; correct?

9 A Correct.

10 Q And this house was not a gift or an
11 inheritance, this was a purchase by you;
12 correct?

13 A Correct.

14 Q Do you know who your real estate agent
15 was?

16 A There wasn't one. It was a private
17 transaction.

18 Q How much did you pay for the house?

19 A I want to say \$60,000, \$63,000, something
20 like that.

21 Q We've already talked about the
22 considerable improvements you've made to the
23 house since you bought it. It sounds like it
24 was pretty standard when you purchased the house
25 itself?

1 A Yes.

2 Q Okay. Mr. Maines, I've just handed you
3 Exhibit No. 15, and this is a document that I
4 received from your counsel. The Bates numbers
5 are 129 through 147. The good news is we're not
6 going to exhaustively review every page of this
7 lengthy document.

8 And the reason it's here is to try to
9 set a value for your house at some point in time
10 that is fairly close to the present.

11 Why was it that this appraisal was
12 undertaken back in 2007?

13 A It was part of the property settlement for
14 my divorce.

15 (Marked Exhibit 15.)

16 BY MR. SHERK:

17 Q Oh, okay.

18 And how was it that you needed to
19 have this work done?

20 A Well, I needed to borrow enough money to
21 pay my ex-wife for her equity in the house.

22 Q How much was the house appraised for back
23 in 2007? Take your time to review this document
24 if you need to. I find it difficult to read
25 just because it's so small.

1 A It looks like 440 -- no, that's the comps.

2 MR. BYRNE: Do you need reading
3 glasses? I've got a spare.

4 THE WITNESS: No, I've got reading
5 contact lenses.

6 \$462,000.

7 BY MR. SHERK:

8 Q Where do you see that?

9 A On the bottom of page 132. This is by the
10 comparative analysis.

11 Q Did you know the appraiser that did the
12 work?

13 A I think it was Daniel Holloway. There are
14 only a couple around. Daniel Holloway.

15 Q Did you consider this to be a fair
16 appraisal back in 2007?

17 A Yes.

18 Q And was this appraisal sufficient to allow
19 you to borrow the amount of money that you
20 needed to resolve your divorce issue?

21 A Yes.

22 Q And how much money did you need to borrow
23 to satisfy your wife's equity claim in the
24 house?

25 A I'd have to go through the loan documents

1 because there was sort of a series of loans in
2 that time window.

3 Q Has your house been appraised since
4 December 22, of 2008?

5 A No.

6 Q How much do you believe your house is
7 worth now?

8 MR. BYRNE: Object to form. You may
9 answer.

10 THE WITNESS: Based on what type of
11 evaluation?

12 BY MR. SHERK:

13 Q Whatever evaluation you think is
14 appropriate.

15 A I mean, what the market will bear or what
16 I think I could sell it for or what it's worth
17 physically or have a conventional appraisal like
18 this done, what the tax people think it's worth?

19 Q Well, what do you think you could sell it
20 for?

21 A I'll say \$499,000, possibly.

22 Q Is it for sale now?

23 A Yes.

24 Q Is that the asking price?

25 A That's the current asking price.

1 Q Do you think that represents a fair value
2 for your house?

3 A No.

4 Q Why not?

5 A Because it's worth \$599,000.

6 Q That's what you think it's worth?

7 A Yes.

8 Q And do you base that on -- on an analysis
9 of comparables?

10 A It's a comparative market analysis that
11 was done in 2008 plus the cost of improvements
12 that were made subsequent to that.

13 Q Who did the comparative market analysis in
14 2008?

15 A Bob Giltane.

16 Q That had nothing to do with your divorce,
17 though?

18 A No.

19 Q As I understood it, that divorce was
20 concluded in 2007?

21 A Correct.

22 Q Did Bob Giltane perform this analysis in
23 2008 because you were thinking about putting
24 your house on the market?

25 A Yes.

1 Q Was the analysis that Bob Giltane
2 performed done after the spill?

3 A No.

4 Q When was it done, do you think?

5 A May, I think.

6 Q Mr. Maines, you've been handed Exhibit
7 No. 16. I'll represent to you this is a
8 document entitled "Deed of Trust."

9 Do you see that?

10 A Yes.

11 (Marked Exhibit 16.)

12 BY MR. SHERK:

13 Q This deed of trust was entered into
14 December 4, 2007; correct? I'm just looking at
15 page 1 of the document.

16 A Yes.

17 Q And that included both you and your wife
18 Gerd; correct?

19 A Yeah.

20 Q The amount stated on this deed of trust is
21 \$329,000.

22 Do you see that on the top of page 1?

23 A It's 392,000.

24 Q Pardon me.

25 A Yes.

1 Q Sorry, I misstated that. \$392,000.

2 A Correct.

3 Q Do you remember the circumstances of
4 entering into this deed of trust in December of
5 2007?

6 A Well, actually, there should be a
7 subsequent document to this. The house is in my
8 name only currently, and the amount of the loan
9 is the same.

10 Q All right.

11 A So I'm not sure why she signed this
12 document. I'd have to look into that. I'm --

13 Q This is a transaction that doesn't ring a
14 bell?

15 A No. The amount of money is right and time
16 window is right, but this was a transaction when
17 essentially I bought her portion of the house.

18 Q So Mr. Maines, it's your testimony that
19 this financial document was superseded by one
20 that was entered into later?

21 A Correct.

22 Q Okay. The maturity date down at the
23 bottom of page 1 of Exhibit 16 of this deed of
24 trust is December 1, 2008?

25 A Correct.

1 Q That was extended, I would assume then, by
2 this subsequently-entered-into document?

3 A Well, yeah. To answer your question, it's
4 been extended in December every year.

5 Q Mr. Maines, you've been handed Exhibit
6 No. 17, and I'll represent to you this is a
7 document entitled "Deed of Trust."

8 A Yes.

9 Q Do you see that?

10 A Yes.

11 (Marked Exhibit 17.)

12 BY MR. SHERK:

13 Q Okay. Can you describe the circumstances
14 that pertain to your entering into this
15 document?

16 A This was the balance of my ex-wife's
17 equity in the house. At that time, the plan was
18 to pay it subsequent to the end of my alimony,
19 periods in October of 2009.

20 Q So your ex-wife was -- or received
21 \$45,000?

22 A An additional \$45,000, yes.

23 Q So pursuant to this deed of trust, she
24 relinquished all right in the house?

25 A Correct.

1 Q This document is dated December 4, 2007;
2 correct?

3 A (No audible response.)

4 Q Mr. Maines, you've been handed Deposition
5 Exhibit No. 18.

6 A Yes.

7 Q I'll represent to you that this is a
8 document entitled "Warranty Deed" that is dated
9 December 4, 2007.

10 Do you see that?

11 A Correct.

12 (Marked Exhibit 18.)

13 BY MR. SHERK:

14 Q Mr. Maines, is this the warranty deed that
15 conveyed your former wife's interest, Gerd
16 Maines, in the house to you?

17 A Yes.

18 Q So as of December 4, 2007, she
19 relinquished any and all interest in the house?

20 A (No audible response.)

21 Q And you're the sole owner of that house?

22 A Correct.

23 Q Okay. Mr. Maines, you've been handed
24 Deposition Exhibit No. 19, and I'll represent to
25 you that this is actually a compendium of

1 divorce-related documents.

2 Do you see those?

3 A Yes.

4 (Marked Exhibit 19.)

5 BY MR. SHERK:

6 Q The reason that I bring this to your
7 attention is because it appears as if the
8 ownership of your house and the transfer of the
9 ownership of your house is connected to your
10 divorce and alimony.

11 A Yes.

12 Q How did the whole situation work?

13 A Well, the plan at that time was that I was
14 going to pay rehabilitative alimony until
15 October of 2009, and that her plan was to go
16 back to college and she would need to sabbatical
17 that year, being her fourth year in college, and
18 that she needed the money to do that. And in
19 the meantime, I was going to either raise the
20 funds elsewhere or liquidate the house to pay
21 her.

22 Q Okay.

23 A That's the way it was at this time.

24 Q What happened after that?

25 A Well, among other things, it became

1 necessary to separate her ownership from the
2 house because she kept interfering with the
3 occupancy, I guess. So that's one of the
4 reasons for the December 4 transaction, was to
5 actually end her interest in the house.

6 Q Okay. Meaning she would come to your
7 house?

8 A Well, she's -- or her house, as she put
9 it. So that terminated that.

10 Q Mr. Maines, you have been handed
11 Deposition Exhibit No. 20. This is a document
12 titled "Declarations Page" that we received from
13 your counsel. It's Bates numbered 168.

14 Do you see that?

15 A Yes.

16 (Marked Exhibit 20.)

17 BY MR. SHERK:

18 Q This document purports to be a
19 declarations page for insurance that is on your
20 property at 2155 Sugar Grove Valley Road?

21 A Yes.

22 Q And it looks as if the -- the amount of
23 insurance on your house is \$299,100; is that
24 correct?

25 A It's actually a replacement policy, but

1 yeah, that's what's stated here.

2 Q Replacement cost meaning if your -- if
3 your house was lost or destroyed, they would
4 have to rebuild it just like it was?

5 A Correct.

6 Q Which could be considerably more than this
7 amount?

8 A Yes.

9 Q Is the insurance you have on your house
10 that's effective now in essentially the same
11 amount as this?

12 A It's a similar policy, yes.

13 Q Also replacement cost?

14 A Yes. All I did was when it became a
15 rental dwelling, I had them put rental dwelling
16 insurance on it for the period of time it was
17 occupied by a tenant.

18 Q Are you doing okay?

19 A I'm doing well.

20 Q Okay.

21 Mr. Maines, you've been handed
22 Deposition Exhibit 21. I'll represent to you
23 this is a real estate appraisal document. Take
24 a look at the top right-hand side of that
25 document. It states, "Tax Year 2009. County of

1 Roane."

2 Do you see that?

3 A Yes.

4 (Marked Exhibit 21.)

5 BY MR. SHERK:

6 Q Are you familiar at all with this
7 document?

8 A Yes.

9 Q In this document, it lists certain
10 appraised values.

11 Do you see that on the right hand
12 side?

13 A Yes.

14 Q The improvements it says, which ought to
15 be your house, is appraised at \$281,300;
16 correct?

17 A Yes.

18 Q And your land was valued at \$55,000;
19 correct?

20 A Uh-huh.

21 Q The total appraisal on this document is
22 \$336,300; correct?

23 A Yes.

24 Q Did you receive this document or something
25 like it?

1 A Well, to answer your question, not
2 8-1/2-by-11. I've got my tax card with this
3 information on it, but I didn't see this
4 specific document.

5 Q When you saw this appraisal, did that
6 prompt you to object or appeal or challenge it?

7 A I had actually set an appeal date of
8 August the 17th, and based on what I had been
9 hearing, withdrew my appointment because no
10 one's been successful in getting a reduction.
11 Actually, what's happening in some cases is that
12 the reexaminations are causing appraised values
13 to increase. It's almost punitive, so I'd
14 rather run under the radar, frankly, and just
15 pay the tax bill.

16 Q It was for last year you had the August 17
17 appointment or this year?

18 A It was this past August.

19 Q Okay.

20 Mr. Maines, you've been handed
21 Exhibit No. 22. I'll represent to you that
22 that's a real estate appraisal for the year
23 2010.

24 A Correct.

25 (Marked Exhibit 22.)

1 BY MR. SHERK:

2 Q Is this the appraisal that you had just
3 alluded to?

4 A Yes.

5 Q On this County of Roane appraisal, it
6 lists the -- your house as being worth \$349,400;
7 correct?

8 A Yes.

9 Q And the land being increased
10 110,000 -- being valued at \$110,000; correct?

11 A Yes.

12 Q And the total appraised value is listed as
13 being \$459,400; correct?

14 A Yes.

15 Q So the land appreciated steeply within one
16 calendar year?

17 A Well, according to the tax office,
18 according to the tax assessor it did.

19 Q So as I understand it, Mr. Maines, you had
20 set an appointment to appeal this tax evaluation
21 and canceled it?

22 A Correct.

23 Q Because of the way that other taxpayers
24 had fared when they challenged their tax
25 appraisals?

1 A Yes.

2 Q Prior to the dike failure on December 22,
3 2008, did you ever believe that you were being
4 exposed to hazardous material in the form of fly
5 ash?

6 A I knew that ash was a byproduct and it
7 became airborne periodically. I frankly didn't
8 consider the hazard, never really gave it a lot
9 of thought.

10 Q Mr. Maines, let me loop back to something
11 before I lose the thread altogether. We had
12 been talking about your house and the value of
13 your house; correct?

14 A Yes.

15 Q We touched upon the potential sale of your
16 house; correct?

17 A Yes.

18 Q Mr. Maines, you've been handed Deposition
19 Exhibit 23, and I'll represent to you that this
20 is a series of photographs involving the listing
21 of your house that we've pulled off the real
22 estate website.

23 Do you see that?

24 A Yes.

25 (Marked Exhibit 23.)

1 BY MR. SHERK:

2 Q Is Robert Giltane your Realtor?

3 A Yes.

4 Q And it shows here that your house is
5 listed for \$449,000; correct?

6 A It better not.

7 Q Excuse me, I keep doing that. \$499,000,
8 pardon me.

9 A Yes.

10 Q All right. Has there been any advance
11 buzz or interest about your house going on the
12 market?

13 A Advanced --

14 Q Has your Realtor, for example, said that
15 he's got some people kind of waiting in the
16 wings that might well be interested in your
17 property?

18 A No.

19 Q Did you coordinate with Mr. Giltane about
20 what would be the value for your house that
21 would be acceptable to buyers who might be
22 interested in the area?

23 A Yes, we discussed it.

24 I haven't seen this before.

25 Q Exhibit 23 contains, you know, quite a few

1 photographs of the indoor and outdoor
2 photographs of the property; correct?

3 A Yeah.

4 Q Pretty comprehensive?

5 A He's a pretty good Realtor.

6 Q Mr. Maines, you've been handed Deposition
7 Exhibit No. 24. This is a document that was
8 produced to us by your counsel. It's Bates
9 numbered 373.

10 This looks to be some -- some notes
11 that could pertain to the valuation of your home
12 for sale?

13 A Yes.

14 (Marked Exhibit 24.)

15 BY MR. SHERK:

16 Q Is that right?

17 A Yes.

18 Q Are these notes done in your hand?

19 A Yes.

20 Q Okay. Up at the top it says, "499 short
21 market"?

22 A Correct.

23 Q Okay. What does that mean?

24 A 90 days or less.

25 Q Meaning you're willing to put it on the

1 house?

2 A If you were willing to put it on, that was
3 the short-market price.

4 Q This was as suggested by your Realtor?

5 A Well, we were talking about scenarios.

6 Q And the 599 price, it says six months?

7 A Correct.

8 Q What does that mean?

9 A Six-month market period.

10 Q So that -- would that signify that if you
11 were willing to hold on for six months, that you
12 ought to price it at 599?

13 A Well, it was part of a more general
14 conversation. It's a little bit out of
15 sequence, but there was some discussion about
16 making improvements to the house. That's what
17 these other numbers are in terms of dressing it
18 for sale. And if you dressed it for sale and
19 were willing to wait 180 days, that was a
20 suggested price. This would have been in May of
21 '08.

22 Q So these notes were taken May 15?

23 A Well, it had to be '08. It wasn't '09,
24 so --

25 Q And it wasn't 010?

1 A No.

2 Q I mean it wasn't '10?

3 A Yeah, it wasn't '10.

4 Q Did your house actually go on the market
5 in 2008?

6 A No. The decision was made to do these
7 improvements and put it on the market in April
8 of 2009 when the water came up.

9 Q Did you actually do those improvements?

10 A Yes, I did more than that, actually.

11 Q Mr. Maines, you've been handed Deposition
12 Exhibit No. 25, and I'll represent to you that
13 this is some printed out e-mails that we
14 received from your counsel. They're Bates
15 numbered 332 and 333.

16 Do you see them?

17 A Yes.

18 (Marked Exhibit 25.)

19 BY MR. SHERK:

20 Q Okay. This is -- the top e-mail is an
21 e-mail dated January 4, 2008; correct?

22 A Right.

23 Q And do these e-mails concern, then, the
24 potential sale of your house or getting your
25 house ready to sell?

1 A No. This was -- Bob had a client that
2 wanted to see the house. And this was related
3 to that.

4 Q And at that time, you weren't willing
5 to --

6 A Well, we were, but they were from Florida
7 and they had a property to liquidate in Florida
8 to be able to move. I don't know what happened
9 to that after that, but it never really
10 developed.

11 Q Nothing transpired from this whole set of
12 circumstances?

13 A Right.

14 Q Can we take a three- to five-minute break?

15 MR. BYRNE: That will work.

16 (Recess.)

17 BY MR. SHERK:

18 Q Mr. Maines, we've talked a little bit
19 about the water source at your house, and I just
20 want to confirm that it is water from a
21 facility; correct?

22 A Yes, Cumberland Utility District.

23 Q Have you ever reached out to TVA and
24 requested that well water be tested?

25 A No.

1 Q Okay. You've indicated you haven't fished
2 much or at all since the spill; correct?

3 A Correct.

4 Q Is that because you're not going out to
5 your boat and your dock or for some other
6 reason?

7 A I primarily fish from the boat that's in
8 the garage. It's -- I fish all over the lake.
9 This is where I like to fish, is where the
10 recovery site is, frankly, so it's I guess been
11 a little bit discouraging.

12 Q Am I correct in thinking that you did some
13 considerable work on your house in 2008 with an
14 eye toward selling it?

15 A At that time, yes.

16 Q And it just didn't happen?

17 A The plan was to put it on the market in
18 April of 2009 by design.

19 Q Okay. You are seeking medical monitoring
20 in this case?

21 A Well, I'd like to see some kind of
22 long-term plan.

23 Q Okay. Why do you believe that you require
24 medical monitoring?

25 A Well, I think that since we don't have a

1 crystal ball, I think there needs to be some
2 wide-based monitoring done to see if there are
3 any statistical anomalies in the future for the
4 people who live in the vicinity of the spill.

5 Q Are you claiming to have been exposed to
6 hazardous substances because of the TVA dike
7 failure?

8 MR. BYRNE: Object to form.

9 THE WITNESS: Well, I'm not an expert
10 on hazardous materials. I guess that the
11 exposure for airbornes certainly, in my case,
12 would be a potential.

13 BY MR. SHERK:

14 Q The Complaint on -- in paragraph 138 of
15 Exhibit 1.

16 A What page, by any chance?

17 Q That would be page 23, right at the very
18 bottom.

19 A Okay.

20 Q A number of substances are listed in
21 paragraph 138.

22 Do you see that?

23 A Yes.

24 Q Do you believe you have been exposed to
25 arsenic because of the TVA dike failure?

1 A I think it's possible.

2 Q Do you believe you've been exposed to
3 vanadium?

4 A I'm not sure what vanadium is, but it's
5 certainly possible.

6 Q It may be vanadium (pronouncing).

7 A Potato, potato (pronouncing).

8 Q Do you believe that you've been exposed to
9 mercury, magnesium, selenium, sodium, cobalt,
10 manganese as a consequence of the failure of the
11 dike?

12 A I believe it's possible.

13 Q Has anyone conducted a physical
14 examination of you to determine whether or not
15 you have any of those substances in your body
16 following the spill?

17 A No.

18 Q Has anybody taken measurements of the air,
19 water or soil at your property to determine
20 whether or not any of those substances are
21 present?

22 A What do you mean by measurement?

23 Q Has anybody performed a test to determine
24 whether or not any of the substances that we
25 just talked about are present in the air, soil

1 or water at your residence?

2 A Not to my knowledge.

3 Q So I -- as I understand it, you haven't
4 had any tests performed on you to determine
5 whether or not the harmful chemicals that are
6 alleged to be in fly ash are present in your
7 body?

8 A Correct.

9 Q Okay. So no blood tests or urine tests or
10 test for heavy metals?

11 A No or yes, whichever the appropriate
12 answer is. Yes, no.

13 Q Yes, no tests were performed?

14 A You said you haven't -- never mind. No, I
15 haven't had any tests.

16 Q Probably not good phrasing. So no tests
17 have been conducted?

18 A Yes.

19 Q And as I understand it from you testimony,
20 your exposure would have been through airborne
21 fly ash?

22 A Well, I haven't had any contact with the
23 water, so --

24 Q Any contact you know of with soil that
25 contained fly ash?

1 A Not that I know of.

2 Q Have you avoided foods grown in the area
3 just because they were locally grown since the
4 spill?

5 A No.

6 Q Is there a period of time that you think
7 the airborne exposure to which you believe you
8 may have been subjected to took place?

9 A Well, I guess it would be ongoing
10 depending on how they manage the capping of
11 whatever is left. If they fail to maintain it,
12 it could be at any time.

13 Q Do you think that there are locations
14 within property class area No. 1 that had been
15 more impacted by airborne fly ash than other
16 places?

17 MR. BYRNE: Object to form.

18 THE WITNESS: Well, I'm not an
19 expert.

20 Can I answer?

21 MR. BYRNE: Yes.

22 THE WITNESS: I'm not an expert on
23 prevailing winds, but I would say whatever the
24 prevailing wind patterns are may impact the
25 volumes of distribution.

1 BY MR. SHERK:

2 Q Do you believe that folks who live closer
3 to the point of the dike failure may possibly
4 have been exposed to more airborne fly ash than
5 those that are more remotely located?

6 MR. BYRNE: Object to form.

7 You can answer.

8 THE WITNESS: I would say that's
9 possible.

10 BY MR. SHERK:

11 Q Have you in any way monitored the progress
12 of the cleanup efforts at the Kingston facility?

13 A I guess not intentionally. I mean, I've
14 watched the equipment come and go in front of my
15 house, so you've got some idea what the level of
16 activity is.

17 Q Do you believe that progress is being made
18 in terms of cleaning up the fly ash?

19 A Yes.

20 Q Do you believe that the efforts to contain
21 the ash with hay, grass seed and other measures
22 has proven to be effective in some way, shape or
23 form?

24 A Yes.

25 Q Okay. Has any medical doctor told you

1 that you needed a screening test due to exposure
2 of materials arising from the dike failure?

3 A No.

4 Q Have you independently gone to a doctor
5 and said, I think I need a screening test to
6 monitor me because I believe I've been exposed
7 to hazardous materials from the dike failure?

8 A No.

9 Q Has any physician told you that you are at
10 a significantly increased risk for disease
11 because of exposure to fly ash?

12 A No.

13 Q Do you know what screening tests in
14 particular are being sought in this lawsuit?

15 A I'm not a doctor, I don't.

16 Q Are you familiar with what diseases the
17 class will seek to be monitored for in this
18 lawsuit?

19 A Not specifically.

20 Q Okay. What sorts of medical examinations
21 do you receive as part of your regular medical
22 care?

23 A I get a physical every year. I have my
24 cholesterol checked every six months, a PSA
25 every year and a colonoscopy every five years.

1 And this year I had heart surgery, so --

2 Q Who is your doctor?

3 A David Heald.

4 Q Is he in Kingston?

5 A He's in Oak Ridge. H-e-a-l-d.

6 Q He checks your weight?

7 A Yes.

8 Q Does he draw blood?

9 A Yes.

10 Q Does blood work?

11 A Yes.

12 Q Urine sample?

13 A No.

14 Q But he checks your cholesterol?

15 A Yes.

16 Q PSA, colonoscopy. Chest x-rays, are they

17 a part of your examination?

18 A I have had them. I guess in the last two

19 years I have had one, more than that again this

20 year.

21 Q And those were aimed toward your heart

22 condition?

23 A Yes.

24 Q And have you received regular physicals

25 from your doctor approximately every year since

1 being --

2 A Every year, generally around my birthday
3 in January, I get my physical.

4 Q Have you had an EKG?

5 A Yes.

6 Q Is that a recent occurrence?

7 A Yeah, lots.

8 Q You have a had lots of EKGs?

9 A Well, when you do cardiac rehab, they
10 monitor you the entire time you're rehabbing.

11 Q Okay. How did you come to know that you
12 had a heart issue?

13 A On my birthday in 2008 my kids had a party
14 for me at Los Primos Mexican Restaurant, and I
15 stood up before dinner and passed out which sent
16 me down a path of CT scans and ultimately a
17 heart cath that found the irregularity in my
18 left coronary artery. It was decided to monitor
19 for two years and see how it behaved, and it
20 behaved poorly.

21 Q Was this a genetic irregularity or
22 something that just developed over time?

23 A Some of it or part of it was cholesterol
24 as you mentioned, which is hereditary also, but
25 this was actually one branch missing in a three

1 branch artery.

2 Q As a consequence of discovering that
3 condition in 2008, I understand you've had EKGs?

4 A Yes.

5 Q Chest x-rays?

6 A Yes.

7 Q Stress tests?

8 A Just the one prior to the original heart
9 attack because the anomaly was so small at that
10 time, there wasn't really wasn't any useful
11 information. The decision was made that any
12 additional diagnostics there would be additional
13 to heart catheters.

14 Q What do you do when you're in heart rehab?

15 A Well, you go weigh yourself, or they weigh
16 you and take your blood pressure, and put a
17 heart monitor on you that's RF -- it sends out a
18 little radio signal -- and they run a
19 pre-workout tape, and you do a series of
20 exercises and record your pulse rate increase or
21 decrease between exercises, and they run another
22 tape and take your blood pressure.

23 Q How long does that go on?

24 A Well, it's supposed to go 36 times, but I
25 have been relieved by my doctor to go back to my

1 own exercise regimen.

2 Q As an adult have you exercised regularly?

3 A Yes.

4 Q What kinds of things do you do?

5 A I do elliptical every other day and
6 stretching and free weights every other off day.

7 Q Do you have a workout place in your house?

8 A In my basement, yes.

9 Q Do you belong to a club too?

10 A No.

11 Q Do you take a statin or any kind of
12 cholesterol medicine now?

13 A Yeah.

14 Q What is it?

15 A I take Crestor.

16 Q Has that just been since your heart
17 condition was discovered?

18 A No, I was taking a cholesterol medication
19 prior to that. I was taking Zocor.

20 Q Zocor?

21 A Uh-huh.

22 Q Crestor is a more powerful statin?

23 A It's the only cholesterol medication that
24 the FDA has approved to state that it can
25 actually reduce the amount of platelets that

1 accumulate in your arteries. I'm taking the
2 maximum dose.

3 Q Do you consider yourself somebody that
4 stays up on current events?

5 A I get Time magazine, so yeah, I stay up.

6 Q Do you get the TV news?

7 A Yes.

8 Q Do you read the papers?

9 A Yes.

10 Q You listen to NPR on the radio?

11 A Yes.

12 Q Do you look at any Internet news sites?

13 A Yeah, but it's really just all the cable
14 networks like CNN and our local network website,
15 and the same thing with the Knoxville Sentinel.

16 Q How have you kept up with activities
17 related to the spill and post-spill remediation?

18 A Pretty much correspondence I received from
19 TVA, what's been in the papers or on the
20 television news. I guess I've been part of some
21 conversations where people were discussing
22 current events.

23 Q And those current events included what was
24 going on at the TVA facility?

25 A Right.

1 Q Okay. And it sounds from your prior
2 testimony you've observed some of the cleanup
3 operations firsthand yourself as well?

4 A Well, more of the -- I can't actually see
5 the site from my house, but everything that went
6 up by water went in front of my house. So I was
7 able to observe the level of activity there,
8 that and the lights at night and the noise when
9 they were running 24 hours a day, or 20 hours a
10 day.

11 Q Did they dredge out in front of your
12 house?

13 A No.

14 Q That was all north of you?

15 A Correct, more upstream.

16 Q Up the Emory?

17 A It's sort of a fishhook, so --

18 Q Mr. Maines, you've been handed Deposition
19 Exhibit 26. I'll represent to you that this is
20 a compendium of documents that we've received
21 from your counsel Bates numbered 184 through
22 241.

23 A Yes.

24 {(Marked Exhibit 24.)

25 BY MR. SHERK:

1 Q There is a common theme to these
2 documents. And they appear, at least to me, to
3 be a collection of documents received by you
4 from TVA, the EPA, and other sources about the
5 spill?

6 A Correct.

7 Q Okay. This collection of documents in
8 Exhibit 26 is the kind of thing that you would
9 keep a file on as you described earlier today?

10 A Yes. I mean, it's fairly casual, but
11 yeah, I'd stick them all in the same folder.

12 Q And these are dated, you know, at
13 different points in time following the spill;
14 correct?

15 A Yes.

16 Q When you were not living in your house
17 following the spill, when it was leased, how
18 would you get these documents?

19 A I had my mail forwarded to either post
20 office box -- I had my mail forwarded to my post
21 office box or Ms. Gregory would hold mail for me
22 if it was left at the house.

23 Q All right. The documents in Exhibit 26
24 reveal information that was imparted to you and
25 other members of the public over time from

1 different sources; correct?

2 A Yes.

3 Q Did you review these materials as you
4 received them?

5 A Yeah, typically.

6 Q Okay. How do you feel about how you were
7 kept apprised of the cleanup efforts following
8 the spill?

9 A Other than being cut off from the site
10 when they closed the river, which I thought was
11 unnecessary, I didn't have a problem with this
12 sort of information. A lot of it's certainly
13 beyond my technical ability to quite interpret
14 what happened, but it was helpful to have the
15 information.

16 Q What alternative to the closure of the
17 river would you have suggested?

18 A Well, they had a no-wake lane open. It
19 was not in the area of dredging, and they had a
20 patrol boat that stayed up there anyway if they
21 were worried about somebody violating that, so I
22 don't know why they didn't just leave the river
23 open. I don't see the safety hazard that they
24 cited.

25 Q You anticipated my question.

1 A I went up there prior to them closing it,
2 and they were dredging, and I could see what the
3 activity involved, and I didn't really see where
4 there was an unreasonable risk because they had
5 created a new channel, basically, that I guess
6 met the navigational criteria that the Coast
7 Guard requires to go around the spill area.

8 Q And this new channel that you are
9 discussing was in the Emory River; correct?

10 A Yes.

11 Q Right around the area of the dike failure?

12 A Yeah, if this were planned north, it was
13 east of the spill of the main channel. It looks
14 to me someone had done some type of excavating
15 to make sure there was enough water volume
16 available to take a boat through.

17 Q Have you observed that the dredging
18 activities are almost completed?

19 A Yes.

20 Q Do you plan to take your boat out and head
21 north up the Emory to see what the condition --

22 A Yes.

23 Q -- of the river is?

24 A Yes.

25 Q Okay. Do you have friends and neighbors

1 that have talked to you about what they have
2 seen in terms of the completion of the dredging
3 activities in the Emory?

4 A Not a whole lot about that. I've heard
5 something about the condition of the sandbars
6 that I referred to, but relative to what's going
7 on on the water right now, no.

8 Q And I think I asked you this, but you
9 don't know Don Simon who lives around mile
10 marker 4?

11 A No, I don't.

12 Q Okay.

13 A If I do, I've forgotten.

14 Q You'd probably remember him. He's a
15 colorful guy.

16 MR. BYRNE: This is the guy that goes
17 on the water without any skis on. He skis on
18 bare feet.

19 MR. SHERK: He's an avid barefoot
20 skier at 70 years of age. He may be the most
21 fit 70-year-old I've ever seen in my life.

22 Q In terms of materials that you received
23 since the spill, were you aware that Vanderbilt
24 and ORAU offered a screening program for
25 residents in the area of the dike failure?

1 A Yes.

2 Q Is that something that you participated
3 in?

4 A No.

5 Q Why is that?

6 A Well, I guess, first of all, I felt
7 confident that they would have plenty of
8 participants. I didn't have any symptoms that
9 made me feel compelled to go do that.

10 Q Do you know what tests that screening
11 program consisted of?

12 A No, I do not.

13 Q Do you know what substances that they were
14 screening for?

15 A Well, beyond what's stated in the
16 Complaint, I'm going to assume some of those
17 materials were there.

18 Q Do you know anybody that participated in
19 the ORAU/Vanderbilt study?

20 A Not directly, no.

21 Q Okay. Is that study similar to the kind
22 of medical monitoring program that you
23 contemplate being instituted here if the court
24 were inclined to do so?

25 MR. BYRNE: Object to form.

1 You may answer.

2 THE WITNESS: Again, I'm not a
3 medical expert, but it would seem to me like,
4 again, a broad based, long-term study that was
5 as statistical as it was practical to see if
6 there's a statistical anomaly in the life
7 expectancy and sickness rates among people that
8 are in the area of the spill. How you get
9 there, I'm not sure. You know, if it's testing
10 tissues or -- but keeping some sort of record
11 just going forward is the only way I'm going to
12 be able to learn that. If my -- my own
13 speculation is if there's a negative result from
14 the toxics that are being seen inside of here,
15 it could be many years downstream before it
16 reveals itself.

17 Q Did you hear about the results of the
18 ORAU/Vanderbilt study which came out last month?

19 A Yes, I read it in the paper.

20 Q What's your understanding of what they
21 concluded?

22 A That they felt that they were not at
23 unsafe levels.

24 Q Did that give you any comfort that things
25 were better than perhaps you felt they were?

1 A Well, I don't know. Again, I don't know
2 what the standard is for unsafe. I don't know
3 enough about these materials to know who set the
4 standard and what it is and what its relevance
5 is. So I understand what the report said, which
6 is, I guess, whatever the accepted standard is,
7 it was below that. But I -- again, I'm not an
8 expert on -- on that sort of thing.

9 Q Are you familiar with the Oak Ridge
10 Associated Universities?

11 A Yes.

12 Q Do you believe them to be, you know,
13 quality and reputable institutions?

14 A I think they're a good scientist.

15 Q Are you familiar with Vanderbilt
16 University?

17 A Yes.

18 Q Do you feel the same about their
19 scientists?

20 A I think they're a good medical facility.

21 Q Are you aware that the Tennessee
22 Department of Health along with the ATSDR did a
23 public health assessment following the spill?

24 A What is the ATSDR?

25 Q I know what that is. I'll tell you.

1 It's the --

2 MR. BYRNE: Do you want me to? It's
3 the Agency for Toxic Substances and --

4 MS. FRY: Disease Registry.

5 MR. SHERK: That's exactly what I was
6 going to say.

7 THE WITNESS: Is that a federal
8 agency?

9 MS. FRY: It's part of the CDC.

10 THE WITNESS: Now we know.

11 I guess you have to restate the
12 question.

13 BY MR. SHERK:

14 Q I got lost there too.

15 Were you aware that the Tennessee
16 Department of Health -- Department of Health and
17 the ATSDR conducted a public health assessment
18 following the spill?

19 A I knew the Department of Health did. I
20 wasn't familiar with the other agency.

21 Q The other agency, okay.

22 Q Mr. Maines, you have been given Exhibit
23 No. 27, and I'll represent to you that this is a
24 summary of the Tennessee Department of Health
25 and the ATSDR public health assessment report --

1 A Yes.

2 Q -- that we pulled off the Internet.

3 I didn't see anything like this in
4 your documents. I don't know if you had
5 received anything.

6 A If I did, I -- I don't remember seeing
7 this document.

8 (Marked Exhibit 27.)

9 BY MR. SHERK:

10 Q Is the Public Health Assessment Summary
11 that you're looking at here in Exhibit 27
12 something that you may have reviewed on the
13 Internet?

14 A No, I would recall it.

15 Q Okay. Did you know that the Tennessee
16 Department of Health was conducting this kind of
17 study?

18 A To be honest with you, I knew they were
19 involved. I didn't know specifically what the
20 effort entailed. ATSDR, hmmm.

21 MR. BYRNE: I should just tell you as
22 your counsel, you know, if you want to take time
23 to read it, you're certainly welcome to.

24 THE WITNESS: Are you going to ask
25 questions about this?

1 MR. SHERK: Yeah, but please take a
2 moment to look at it.

3 MR. BYRNE: But you may not have to,
4 but those questions have, you know, substantive
5 information or statements.

6 BY MR. SHERK:

7 Q I just have a few questions about this,
8 Mr. Maines. Whenever you're --

9 A I'm just finishing the summary. Be right
10 with you.

11 Q Okay.

12 A Okay.

13 Q Reviewing this document, does this refresh
14 your recollection that you may have heard about
15 some of the results of this public health
16 assessment through the news or --

17 A Possibly.

18 Q You understand that this assessment was
19 undertaken by the -- you know, the Tennessee
20 Department of Health and the federal agency, the
21 ATSDR; correct?

22 A Yes.

23 Q And do you have any reason to think that
24 their results would be, you know, misleading or
25 in any way skewed in favor of the defendants in

1 this case?

2 A No.

3 Q Let's turn to page 3 under the
4 "Conclusions" section of that.

5 A Yes.

6 Q Okay. There are any number of numbered
7 conclusions.

8 Do you see those?

9 A Yes.

10 Q If you look at No. 8,

11 "No harm to people's
12 health should result from
13 recreational use of the Emory,
14 Clinch, and Tennessee Rivers
15 outside of the area of the lower
16 Emory River down to the
17 confluence of the Emory and
18 Clinch Rivers, as specified in
19 the recreational advisory and
20 river closure."

21 Were you aware of that conclusion?

22 A No.

23 Q Does that come as some good news to you?

24 A Yeah.

25 Q When you see this kind of finding from

1 public health agencies, does this make you
2 reconsider or rethink the need for medical
3 monitoring in this case?

4 MR. BYRNE: Object to form.

5 THE WITNESS: I think that this is
6 good news, I mean, relative to the immediate
7 result. However, again, my concern would be
8 over a much longer period of time than the
9 period since the ash spill.

10 MR. SHERK: Let's take a quick time
11 out.

12 (Off the record.)

13 BY MR. SHERK:

14 Q Mr. Maines, you've been handed Exhibit
15 No. 28.

16 A Yes.

17 (Marked Exhibit 28.)

18 BY MR. SHERK:

19 Q I'll represent to you that is a news story
20 from the Roane County News that we pulled off
21 the Internet. And I wondered, were you familiar
22 with this news story?

23 A I read the Roane County News.

24 Q Okay. Could this have been the news
25 article that you read regarding the ORAU study?

1 A Well, it was either this one or the one in
2 Knoxville Sentinel.

3 Q All right. Up at the top of that article,
4 second paragraph down, it says, quote,

5 "Based on our medical
6 evaluation and the current
7 levels of exposure for these
8 residents, we did not see any
9 effects on their physical
10 health."

11 Did I read that correctly?

12 A Yes.

13 Q Okay. Mr. Maines, if we were to look back
14 and kind of do a broad overview of your
15 childhood health, would you conclude that you
16 were a healthy child?

17 A Yes.

18 Q Did you have any major illnesses as a
19 child?

20 A No.

21 Q No asthma or bronchitis?

22 A No.

23 Q Cancer?

24 A No.

25 Q No whooping cough or pneumonia?

1 A No.

2 Q Polio?

3 A No.

4 Q Rubella or scarlet fever?

5 A No.

6 Q Any operations as a child?

7 A Appendectomy.

8 Q Is that when you were a teenager?

9 A Yeah, early teenager.

10 Q Any broken bones?

11 A Yes.

12 Q What did you break?

13 A I broke the four bones in this hand. I

14 broke my collar bone, I broke my shoulder, I

15 broke two ribs, and I think I broke my big toe

16 one time.

17 Q Sports related?

18 A Some of it. Not the big toe, but some of

19 the others were.

20 Q Any hospitalizations as a child?

21 A Other than the appendectomy, no.

22 Q From the period of time -- as an adult,

23 from the period of time of becoming an adult to

24 2008 when you discovered your heart problem, how

25 would you characterize the state of your health?

1 A Good.

2 Q You indicated that you have gotten yearly
3 physicals?

4 A Yes.

5 Q And you go to a physician for routine,
6 regular treatment?

7 A Yes.

8 Q Okay. Other than the hospitalization that
9 you had for your heart procedure in May of this
10 year, have you had other hospitalizations?

11 A I had an ACL reconstruction of my right
12 knee.

13 Q Was that in relation to a running-related
14 or sports-related --

15 A Well, that's where it started. Took it
16 out at a volleyball game, but that's been
17 several years ago.

18 Q Early 2000s?

19 A 23, 24 years ago.

20 Q So that was it in terms of
21 hospitalizations?

22 A Yes.

23 Q And again, excepting your heart procedure
24 in May of this year, have you had other
25 surgeries?

1 A Well, outpatient. Is that -- I had -- the
2 same knee had a debridement three years ago,
3 something like that.

4 Q And that's it?

5 A Yes.

6 Q Now, as an adult, have you suffered from
7 asthma?

8 A No.

9 Q Any other breathing problems?

10 A No.

11 Q Anemia?

12 A No.

13 Q Cancer?

14 A No.

15 Q Any viral infections?

16 A You mean like the flu?

17 Q More significant than just regular flu.

18 A No.

19 Q Any stomach or gastrointestinal problems?

20 A No.

21 Q Ulcers?

22 A No.

23 Q Pneumonia?

24 A No.

25 Q Infections of the lungs or other lung

1 disorders?

2 A I've had a sinus infection before.

3 Q Any liver problems?

4 A No.

5 Q Jaundice or hepatitis?

6 A No.

7 Q Rheumatic fever?

8 A No.

9 Q Malaria?

10 A No.

11 Q Diabetes?

12 A No.

13 Q Thyroid problems?

14 A No.

15 Q You indicated you're currently on a

16 statin?

17 A Yes.

18 Q A cholesterol drug.

19 Any other medications or drugs you

20 take on a daily basis?

21 A Yes. Do you want them all?

22 Q Are there -- there are many?

23 A There are eight of them currently.

24 Q Sure.

25 A I take Lotrel, L-o-t-r-e-l.

1 Q What was that is for?

2 A Blood pressure. I take Bystolic,
3 B-y-s-t-o-l-i-c, same thing. I take
4 hydrochlorothiazide, HCTZ is what it's commonly
5 referred to as. It's also a blood pressure
6 medication. I take Plavix, which is a blood
7 thinner. And I take Crestor. And I take
8 aspirin.

9 Q Baby aspirin?

10 A 81 milligrams aspirin, yes.

11 Q One of the tiny --

12 A The tiny ones, the little baby aspirin.

13 Q Has your regimen of taking this group of
14 medications only been since your heart condition
15 was discovered?

16 A This -- this regimen, yes. I was taking
17 blood pressure medicine prior but not like this.

18 Q When were you diagnosed with high blood
19 pressure?

20 A Oh, geez. Five or six years ago, around
21 when I turned 50.

22 Q Was that diagnosed to be a hereditary
23 condition?

24 A Yes.

25 Q Did you have to make modifications to your

1 diet?

2 A Well, I was on a pretty good diet already,
3 so it wouldn't -- I was told it wouldn't help.
4 I might as well accept the fact that I was going
5 to take medication.

6 Q All right. Other than the blood pressure
7 medication that you began taking five years or
8 so ago, were there other medications that you've
9 been taking regularly since becoming an adult?

10 A No.

11 Q How would you characterize your diet?

12 A Low carbohydrate, high protein, something
13 akin to a modified South Beach, I guess.

14 Q Have you ever been told by a doctor to
15 change your diet?

16 A No.

17 Q Ever been told by a doctor to lose weight?

18 A No.

19 Q Do you drink alcohol?

20 A Yes.

21 Q Ever been told by a doctor to cut down or
22 quit drinking?

23 A I've been told to take it easy, yes.

24 Q Okay.

25 A It's a contributor to atherosclerosis.

1 Q So because of your heart condition, your
2 doctor advised you to --

3 A Limit the intake of alcohol.

4 Q That's the only reason why?

5 A Yeah.

6 Q Do you smoke?

7 A No.

8 Q Have you ever smoked?

9 A Yes.

10 Q During what period of time?

11 A From '68 to '94.

12 Q How much would you smoke a day?

13 A A pack, pack and a half.

14 Q What brand?

15 A Camel.

16 Q Camel nonfilter?

17 A Yes.

18 Q Okay. How did you go about quitting?

19 A Well, I failed quite a few times. I guess
20 I ended up using a combination of all the
21 techniques I read about, and I took five days
22 off work and left town, basically.

23 Q The patch?

24 A Gum.

25 Q Nicotine gum?

1 A Yeah.

2 Q And you haven't smoked since 1994?

3 A Right.

4 Q Did any doctor advise you to quit smoking?

5 A Not really.

6 Q Were your doctors aware that you were a
7 smoker?

8 A Yes.

9 Q We touched upon this way early this
10 morning, but I believe you said that
11 your -- your mother passed away?

12 A Yes.

13 Q She had?

14 A Pancreatic cancer.

15 Q Okay. And your father had a heart
16 condition?

17 A Well, he didn't have one. He's had sort
18 of an unplanned heart attack about 90 days ago.
19 I guess he does now.

20 Q Right, yeah.

21 We're actually at a really good
22 point to check to see if there's any food here.
23 It's almost 1:00. Would it be okay if we take
24 five and check and see where we are on lunch?

25 MR. BYRNE: Yeah.

1 (Recess.)

2 BY MR. SHERK:

3 Q Mr. Maines, we're back on the record after
4 an abbreviated lunch break.

5 We have concluded talking about the
6 current and past state of your health. Let's
7 turn to another subject now.

8 Okay?

9 A (No audible response.)

10 Q Following the spill in December of 2008,
11 have you taken the opportunity to visit the TVA
12 site, by that I mean the area where the
13 containment dam broke in the ash spill?

14 A I've been there, yes.

15 Q What were the circumstances of your visit?

16 A One was to see the reopened road shortly
17 after they reopened the road, actually.

18 Q Which road was that that you're referring
19 to? We're looking at Exhibit 4.

20 A Let me get oriented again. This is Swan
21 Pond Road? Is that it?

22 Q Yes.

23 A I went down Swan Pond Road, and this is
24 the area that had been washed out that was
25 rebuilt, and went across to -- Ms. Gregory's

1 house was in here somewhere, and I went to see
2 her house since I had never seen it before.

3 Q What period of time was that?

4 A That must have been March, I would guess.

5 Q March of?

6 A '09.

7 Q 2009.

8 A And then this is the back way. There's a
9 quarry back here that everyone uses. Circle
10 Road goes on around this way, and this, I think,
11 Bullet Ford Road. Here it is. This takes you
12 back into Harriman, sort of the back way of
13 getting there, taking that road there.

14 Q Ms. Gregory was the woman who rented your
15 house; correct?

16 A Correct.

17 Q So you went to visit her?

18 A Just to see if she wasn't there, she had
19 already moved out.

20 Q And you saw the location of her house?

21 A Yes.

22 Q Did she sell that house back to TVA?

23 A Yes.

24 Q She told sold it to TVA, rather?

25 A Yes.

1 Q Do you know other folks that have had
2 their properties purchased by TVA?

3 A I mean, I don't know who they are, but
4 several people along here had sold. There's a
5 couple right here I think -- I can't remember
6 their name, but they had sold their house there
7 also because I run into her -- well, she does my
8 teeth. What in the world is her name? Judy
9 something. But anyway, it sold.

10 Q Are you referring to the Lakeshore Drive
11 area?

12 A Yeah, right. This area.

13 Q By Swan Pond Circle?

14 A Correct.

15 Q Other than the visit to Ms. Gregory's
16 former house in March of 2009, have you had any
17 other occasions to tour or be around the point
18 of the dike failure at the Kingston facility?

19 A No.

20 Q I believe you said Ms. Gregory relocated?

21 A Yes.

22 Q To somewhere in Kingston?

23 A I think this is Bluff Road, somewhere
24 along this road, in this area. She's not on the
25 lake.

1 Q She moved away south, then?

2 A Well, it's across the 70 bridge. It's
3 still in Kingston.

4 Q Since the spill, have you attended town
5 hall meetings regarding the cleanup?

6 A No.

7 Q Since the spill, have you attended any
8 presentations by TVA or the EPA regarding the
9 cleanup efforts?

10 A No.

11 Q Since the spill, have you attended any
12 meetings or presentations by TVA or the EPA or
13 TDEC regarding any medical screening that was
14 offered?

15 A No.

16 Q Okay. Since the spill, have you attended
17 any meetings or presentations regarding the
18 public health assessment that we had discussed
19 this morning?

20 A No.

21 Q Since the spill, have you made any kind of
22 complaint to TVA?

23 A Regarding?

24 MS FRY: Object to form.

25 BY MR. SHERK:

1 Q Regarding -- well, it can be with regard
2 to any number of things. Let's start with their
3 handling of the cleanup effort.

4 A No.

5 Q Have you made any complaints to TVA
6 regarding the purchase of your home?

7 A No, not a complaint.

8 Q Your communication was of a different
9 nature?

10 A Again, I think I stated this earlier. I
11 said, at the outreach center, I stated that
12 there had been a diminution of value related to
13 the spill and who did I need to see about that.
14 It never really went anywhere beyond that.

15 Q You never got a conclusive answer one way
16 or another about --

17 A I never got past a volunteer or retired
18 TVA volunteer that was screening folks. They
19 did make notes of our meetings.

20 Q Did you ever receive a letter from TVA
21 declining to purchase your home?

22 A Well, it was a general letter, but yes,
23 specifically in terms of settling any claim for
24 loss --

25 Q And I believe --

1 A -- of value.

2 Q I'm sorry. I believe your testimony was
3 that people in the area where you live got this
4 form letter?

5 A Correct.

6 Q That's your understanding?

7 A That's my understanding, yes.

8 Q Did you ever go to TVA or Crawford and say
9 unequivocally, I would like TVA to repurchase my
10 home?

11 A No.

12 Q Have you made any comments or suggestions
13 to the Tennessee Department of Health or TDEC or
14 any other governmental agency about the cleanup
15 efforts or your thoughts about the effects of
16 exposure to fly ash?

17 MS. FRY: Objection to form.

18 THE WITNESS: Have I made comments?

19 MR. SHERK: Uh-huh.

20 THE WITNESS: Can I answer?

21 MS. FRY: Yes, you can answer.

22 THE WITNESS: No.

23 BY MR. SHERK:

24 Q What I'd like to do is make sure I have
25 the chronology of events straight as to where

1 you've lived since the spill.

2 A Okay.

3 Q We know that on December 22, 2008, you
4 were living at --

5 A 2155.

6 Q -- 2155; correct?

7 A Yes.

8 Q Okay. By mid-December of 2009, you had
9 moved; correct? We can look at the --

10 A No, I had moved -- I moved back in
11 September of 2009.

12 Q Sorry, I misspoke.

13 By mid-January 2009 or thereabouts,
14 you had leased your house?

15 A Yes.

16 Q And you had moved?

17 A Correct.

18 Q And you lived --

19 A 841 Nelson.

20 Q Right, at 841 Nelson from around
21 mid-December 2009 until September of 2009?

22 A Correct.

23 Q Did it again, sorry. The after-lunch
24 blahs.

25 So from January -- mid-January 2009

1 till sometime in September 2009, you lived at
2 841 Nelson Drive; correct?

3 A Correct.

4 Q In September of 2009, you returned to
5 2155; correct?

6 A Yes.

7 Q Have you been there continuously ever
8 since?

9 A Yes.

10 Q Okay. Since September of 2009, who has
11 lived with you at 2155?

12 A Mary Colyer, my daughter Megan Loree, her
13 daughter Ashley Jones, and her three children.

14 Q Ashley Jones has three children?

15 A She has three children, yes.

16 Q What are their names?

17 A Nevaeh, that's heaven spelled backwards.
18 Emmarie.

19 Q Emmarie?

20 A Like the Emory River, only spelled
21 differently. And Anika.

22 Q Let me make sure that I have this
23 straight.

24 Megan is your daughter?

25 A Yes.

1 Q And your daughter has a daughter?

2 A No, Mary has a daughter.

3 Q Oh, Mary has a daughter. I was going to
4 say, I don't know how that's humanly possible.
5 Megan may have pulled off the impossible.

6 A I wondered why your eyes kept getting
7 bigger.

8 Q Has Mary Colyer lived there the entire
9 time since 2009?

10 A Since September, yes.

11 Q September 2009, okay.

12 Your daughter Megan has come and gone
13 at various times?

14 A Right.

15 Q What's the -- if you could add up all the
16 days that she spent at your house since
17 September of 2009, how many days do you think
18 that would add up to approximately?

19 A I'd say ten or less. She has a boyfriend.

20 Q And she lives in Cleveland?

21 A No, she has moved to -- she has moved up
22 here, and she's staying primarily with him here
23 in Kingston.

24 Q All right. When did Ashley Jones move
25 into --

1 A Well, she didn't move in. You asked who
2 stayed there. She is staying there since last
3 Saturday.

4 Q Oh, she's only been there a few days then
5 with her children?

6 A Yes, correct. I mean they visit her, but
7 they don't stay there.

8 Q So they are, at best, temporary guests?

9 A They're guests.

10 Q We've covered the waterfront, then, in
11 terms of folks who have stayed at your house
12 since September 2009?

13 A Well, my son spent the night there. He
14 had a little bit too much to drink one night and
15 stayed there. Does that count?

16 Q Technically, yeah. I got the picture.

17 We've talked on and off today about
18 exposure to fly ash; correct?

19 A Yes.

20 Q And we talked about the two instances in,
21 I believe it was January 2009, where you saw
22 what appeared to be ash on your car?

23 A Yes.

24 Q We also talked about, you know, your
25 airborne exposures; correct?

1 A Yes.

2 Q Okay. Do you believe that exposures at
3 your residence have been continuous since the
4 spill?

5 MS. FRY: Object to form.

6 THE WITNESS: To be honest with you,
7 unless it lands on a car or something, I can't
8 tell that if it's there -- I mean, unless it
9 lands on a hard surface -- so I guess possible.
10 I guess that's kind of a non-answer, but maybe.

11 BY MR. SHERK:

12 Q The closest that you can testify to of
13 exposure that is verifiable is the two incidents
14 where you saw some material on your car which
15 you believed to be fly ash?

16 A Yes.

17 Q Okay. Do you believe you were being
18 exposed to fly ash when you were at the
19 residence?

20 A Well, again, I don't know. I don't know
21 how you see it or identify it.

22 Q If you look at Exhibit 4, if we go from
23 your house and we head toward Ladd Landing where
24 we are now --

25 A Yes.

1 Q -- you would cross a bridge; right?

2 A Yes.

3 Q What bridge is that?

4 A That's the Center Bridge.

5 Q Center Bridge. And are we right on the
6 other side of the Center Bridge?

7 A Uh-huh.

8 Q Do you believe we are being exposed here
9 at Ladd Landing to fly ash?

10 MS. FRY: Objection. Form.

11 THE WITNESS: Well, again, it's
12 possible.

13 BY MR. SHERK:

14 Q Don't know one way or the other?

15 A I don't know one way or the another.

16 Q Okay. With the class geographical area
17 being what it is today as reflected on this map,
18 do you think that the exposure here at Ladd
19 Landing would be much different than at 2155?

20 MS. FRY: Object to form.

21 You can answer.

22 THE WITNESS: Go ahead? You mean
23 airborne?

24 BY MR. SHERK:

25 Q Yeah, airborne exposure to fly ash.

1 A I guess in the right weather conditions.

2 Again, I'm not a scientist. I don't know how

3 you study airborne particulates and the effect

4 that the weather can have on them, but if the

5 wind's blowing the right way, they can certainly

6 be here.

7 Q It's not anything that anyone has tested

8 to the best of your information?

9 A Not that I know of.

10 Q You mentioned earlier today that activity

11 on the river has been down?

12 A On my portion, yes.

13 Q On your portion.

14 Have you noticed that during

15 holidays there has been an increase in traffic

16 in the river?

17 A More than other days?

18 Q Yes.

19 A Yes.

20 Q Okay. And I believe you testified you

21 have not been up to mile marker 4 by Sportsman's

22 Cove since the spill?

23 A Well, I went up the day prior to the

24 closing of the river. I went that far.

25 Q Okay. That was the only occasion, though?

1 A Yes.

2 Q So you didn't make your way there this
3 Fourth of July or anything like that?

4 A No.

5 Q Is your domestic partner, Mary Colyer,
6 running any kind of business out of your house
7 now?

8 A She has a cleaning business, I guess,
9 their people rally there and they leave from
10 there.

11 Q So they have -- it's more an office than
12 anything else?

13 A Well, more of a book -- a scheduling book
14 that they use to schedule.

15 Q Do they store their cleaning supplies at
16 2155?

17 A No, primarily they keep them in their
18 vehicles. It's a small business.

19 Q Very, very early this morning, Mr. Maines,
20 you mentioned a prior deposition?

21 A Yes.

22 Q What did that concern?

23 A I was an expert witness in a -- for the
24 plaintiff in a lawsuit involving a contractor.

25 Q Okay. So it was a construction contract

1 dispute?

2 A Yes.

3 Q How was that experience?

4 A Brief, a lot briefer than this. There
5 wasn't a whole lot to talk about.

6 Q Right. I don't think I have any more
7 questions.

8 E X A M I N A T I O N

9 BY MS. STENNES:

10 Q Mr. Maines, my name is Libby Stennes. I
11 represent WorleyParsons Corporation. I just
12 have a few questions for you today.

13 The first one is do you know what
14 WorleyParsons Corporation is?

15 A Just what I've learned since the
16 Complaint.

17 Q When did you first learn of WorleyParsons
18 Corporation?

19 A When I saw the Complaint.

20 Q Was that yesterday?

21 A Yes.

22 Q Did I hear you correctly this morning that
23 you've been fishing one time since the spill?

24 A Yes.

25 Q Where did you go fishing?

1 A Up the Tennessee River. It was on -- let
2 me get -- let's see. I need a bigger map, I
3 guess. But it's -- I was up this area and
4 actually upstream from this, from here to here.

5 Q So you're on Exhibit 5?

6 A Right. This is an area called Bell Cove.
7 There's a boat ramp there, and I launched there
8 and went up the river.

9 Q Do you remember when that fishing trip
10 was?

11 A No. But like -- it was toward the end of
12 summer last year.

13 Q End of summer of 2009?

14 A Yes.

15 Q Did anyone go with you?

16 A Mary.

17 Q Did you catch anything?

18 A Yes.

19 Q What did you catch?

20 A We were having a bluegill catching
21 contest.

22 Q Who won?

23 A She did, unfortunately.

24 Q All right. And I know you said you have
25 not been actually in the water since the spill;

1 is that correct?

2 A Right.

3 Q Have any of your family members been in
4 the water since the spill?

5 A Not that I know of. My daughter has, I
6 know, south of Kingston, just because she's told
7 me that. I haven't actually seen her in the
8 water, but --

9 Q Do you know when she went in the water?

10 A About every weekend, I believe.

11 Q Is that every weekend for both 2009 and
12 2010?

13 A 2010.

14 Q Okay. What about any guests at your
15 property, have they gone in the water?

16 A Not to my knowledge.

17 Q When you were planning to put your home on
18 the market in 2009, did you have an idea of
19 where you would live once you sold your home?

20 A Probably in the area. I was thinking more
21 lakeview than lakefront. I'm past all that at
22 my age, but something lower maintenance.

23 Q And what about now? Do you have a plan
24 now?

25 A Similar.

1 Q Okay. Thank you. Those are all my
2 questions.

3 E X A M I N A T I O N

4 BY MS. LOWE:

5 Q Good afternoon, Mr. Maines. My name is
6 Ashley Lowe, and I represent GeoSyntec, and I've
7 just got a few questions for you similar to what
8 Ms. Stennes asked you.

9 Do you know who GeoSyntec is?

10 A Well, other than the Complaint.

11 Q Is the first time that you learned of
12 GeoSyntec or saw anything related to GeoSyntec
13 when you reviewed the Complaint?

14 A As far as I know.

15 Q Okay. And that was yesterday?

16 A Right.

17 Q Did you ever review the Long complaint or
18 any of the other complaints other than this
19 consolidated class action complaint?

20 A No, I haven't.

21 Q Ms. Stennes was asking you about your
22 fishing trip a few moments ago. What did you do
23 with the fish that you caught?

24 A We were just counting them. We would just
25 turn them loose.

1 Q Okay. You spoke a little bit earlier
2 about insurance that you've had on the house at
3 various different times. I understand you've
4 had homeowner's insurance, and then also you've
5 had rental insurance for the time Ms. Gregory
6 was there; is that correct?

7 A Correct, yes.

8 Q Have you ever made any claims on any of
9 your insurance policies for damage to the house
10 at any time since you've owned it?

11 A Not for damage. I had a claim for theft.

12 Q When did you have a claim for theft?

13 A 2008, some things were taken from a boat
14 that was in the garage.

15 Q Was the garage locked?

16 A Well, there were workmen there. That was
17 during this period of time it was being
18 renovated.

19 Q Was that prior to the spill?

20 A Yes.

21 Q Is that the same -- the boat that you had
22 in the garage at that time that some things were
23 taken out of, is that the same boat that you
24 have in the garage right now, the fishing boat?

25 A Yes.

1 Q Any other claims under either your
2 homeowner's insurance policy or rental insurance
3 policy?

4 A There was another theft in, God, 1990,
5 '91. I had some things taken from a boat that
6 was in the water, and my homeowner's insurance
7 covered it.

8 Q Any claims for any of the damage to the
9 property while Ms. Gregory was living there that
10 you made under the rental policy?

11 A No.

12 Q Do you know anyone that works at the
13 Kingston TVA facility?

14 A I don't know them personally. I know some
15 people that work there.

16 Q Have you talked with anyone that works at
17 the TVA Kingston facility about the spill?

18 A No.

19 Q To your knowledge, have you ever talked
20 with anyone from GeoSyntec?

21 A No.

22 Q Do you recall the names of the retired TVA
23 employees that you spoke with about your home?

24 A No. The ones that had cards I photocopied
25 and sent along with my information. I stapled

1 them to the inside of a file folder. They
2 should be somewhere in the pack.

3 Q So you think those are things that you
4 provided to your lawyers?

5 A Yes. Yes.

6 Q Did those cards reflect that they were
7 retired from TVA or that they were affiliated
8 with TVA in some way?

9 A Yes. It also included cards from the
10 property management folks regarding the lease
11 which -- I mean, they didn't have any
12 discussions regarding the spill. It was just
13 regarding the property.

14 Q So you dealt with separate people from TVA
15 regarding the property lease?

16 A Yeah, it was a separate group.

17 Q How did you find out that TVA was looking
18 to lease property?

19 A John Singleton called me looking for a
20 place for his mother, and apparently she had
21 been working with the TVA representatives to
22 find a place to relocate. And he asked me if I
23 would consider it.

24 Q Do you know why he thought you would
25 consider it?

1 A Well, you know, I had contemplated moving,
2 and that was just me. Other than that, I'm not
3 sure why he thought of it. I think he thought
4 his mother might buy the house.

5 Q Did you ever have any negotiations or
6 discussions with her about purchasing your house
7 after she finished renting it through TVA?

8 A After I met her and saw her physical
9 condition, I knew she would not buy that house.

10 Q Do you have a listing agreement for the
11 current sale of your house?

12 A Yes.

13 Q Is that something that you have already
14 provided to your lawyers?

15 A No, it's just two weeks old.

16 Q Do you have a copy at home that you could
17 provide to your lawyers?

18 A Yes.

19 Q Can we agree, Brantley, that you guys will
20 produce that to us?

21 MS. FRY: Yeah, we'll get it. Yeah.

22 MS. LOWE: Okay. Thank you.

23 Q Is that listing agreement directly with
24 Mr. Giltane or with his company?

25 A It's with Sail Away.

1 Q Have you worked Mr. Giltane before -- I
2 guess before this listing agreement with him?
3 You worked with him in '08?

4 A Again, on the same property. He refers to
5 it as the longest listing agreement he's ever
6 worked on.

7 Q Okay. Did you have a separate agreement
8 with him, then, to do the sales analysis that he
9 did for you?

10 A No, he did that as a sales tool to try to
11 attract me as a client.

12 Q Why did you pick Mr. Giltane back in
13 2008? Is that correct?

14 A I interviewed Suzann Griffin from -- I
15 forget the name of her company, Watts Bar Realty
16 I think, and Sean Stephens from Pioneer Realty.
17 And Bob did the most effective market analysis,
18 and also his business specializes in the sale of
19 waterfront property.

20 Q Did you have any prior relationship with
21 Mr. Giltane before 2008?

22 A No.

23 Q Have you talked to Mr. Giltane at all
24 about these lawsuits?

25 A He knows that I was coming to give a

1 deposition, that I was a class representative.

2 Q Did you-all talk at all about what
3 questions you might be asked or anything about
4 the claims that are being made in the lawsuit?

5 A No.

6 Q How do you know he knew you were coming to
7 do your deposition?

8 A Well, I've been in communication with him
9 regarding this listing agreement. I guess just
10 in the course of conversation, what was the
11 status of things.

12 Q Are you involved in any community
13 organizations or clubs here in the Kingston
14 area?

15 A Not any longer.

16 Q What were you previously involved in?

17 A The Kingston Optimist Club.

18 Q How long were you involved in the Kingston
19 Optimist Club?

20 A Seven or eight years.

21 Q When did you stop?

22 A Oh, when my kids outgrew it, 2000,
23 2003 -- somewhere between 2000 and 2003.

24 Q Any other groups or organizations you're
25 involved in?

1 A No.

2 Q I saw some documents in the documents your
3 counsel produced that I assume you provided to
4 them related to your dock permit with TVA.

5 A Yes.

6 Q Those documents were dated in 2009?

7 A Right.

8 Q Was there an issue that came up with the
9 dock in 2009 that required -- I guess it looked
10 like a permit and maybe a transfer from the
11 prior owner of the property?

12 A What happened was in anticipating getting
13 the house ready for sale and looking at the
14 document trail, that the dock permit had not
15 been transferred to me from the previous owner,
16 Tony Schaffhauser. So this was an effort to
17 clean that up.

18 Q So nothing that brought it to your
19 attention other than your trying to clean things
20 up for your sale?

21 A Correct. That I had a set of moving
22 documents if there was a transaction on the
23 house.

24 Q Now, I think Mr. Sherk asked you about
25 people, I guess, who had stayed at your house --

1 A Yes.

2 Q -- following the spill. Obviously, we
3 know Ms. Gregory stayed there because she rented
4 the property.

5 During the time period where you were
6 at the house, whether it be that month after the
7 spill or since September of '09, have you had
8 any frequent visitors at the house other than
9 people who would have spent the night like a
10 weekly, I don't know, book club or any type of
11 frequent visitor to the house?

12 A My son, Zach, comes by frequently; Mary
13 Colyer has a partner, Michelle Colyer, that
14 comes by frequently.

15 Q Anybody else that you can think of?

16 A No.

17 Q Other than you, did anyone observe what
18 you characterized as the fly ash on the
19 windshield of your truck?

20 A Mary may have.

21 Q Have you talked to her about that?

22 A No, I haven't.

23 Q Did you take any photographs of your
24 truck?

25 A No, I just didn't think it was that big a

1 deal, frankly, at the time. I just took it down
2 to the car wash and ran it through the car wash.

3 Q At any time when you went -- I know you
4 indicated at some point you went and maybe
5 looked across the river at the spill area. Have
6 you taken any photographs of anything that you
7 would relate to the spill or any fly ash
8 anywhere in the community?

9 A I may have had some, but they were on a
10 hard drive that failed on my computer, and I'm
11 not sure I can recover them.

12 Q What do you think you might have taken
13 photographs of?

14 A Some of the barges going by in front of
15 the house primarily, some of the equipment,
16 maybe some of the cenospheres that were floating
17 around immediately after the spill.

18 Q So like down at your dock?

19 A Yeah, they sort of collected there. They
20 had a boom around my dock.

21 Q I'm sorry.

22 A Pardon me.

23 Q Go ahead and finish.

24 A They had collected around my dock.

25 Q So they had placed a boom near your dock

1 and collected --

2 A Right. And they sent a crew around with a
3 big vacuum to suck it all up.

4 Q And you might have had some photographs of
5 that?

6 A Possibly, but I don't know if I can
7 recover them.

8 Q Do you have the hard drive where these
9 photographs --

10 A Yes.

11 Q -- would have been or could possibly still
12 be?

13 A Yes.

14 Q How are you maintaining that hard drive?

15 A It's in my -- stored with my other dead
16 computers. It's at my house.

17 Q Where is it stored in your house?

18 A In my basement storage room.

19 Q Is that humidity controlled in your
20 basement storage room?

21 A It's got a dehumidifier.

22 Q Is it temperature controlled?

23 A No, it's subterranean though. It's got a
24 fairly moderate room temperature.

25 Q When did that hard drive fail?

1 A I don't know. It was after September of
2 last year because I was using a net book while I
3 was staying at 841. I didn't take it with me.
4 So it had to be after I got back to Sugar Grove
5 Valley, so it was after September, certainly
6 before the end of the year, sometime between
7 September and December 2009.

8 Q Do you know when you would have taken
9 these photographs?

10 A Well, mostly before I moved out in
11 January. You know, I was still coming to the
12 house every day.

13 Q So sometime following the spill but prior
14 to when you moved out and Ms. Gregory moved in?

15 A Correct.

16 Q Any other categories of photographs other
17 than the barges or the cenospheres in front of
18 your dock that you recall taking?

19 A No.

20 Q Did you take any videotapes of anything
21 you would relate to the spill?

22 A No.

23 Q Did you ever print out any copies of these
24 photographs, or did you just have them
25 digitally?

1 A Just downloaded them to the computer
2 digitally.

3 Q You mentioned your primary care physician,
4 I believe Dr. Heald -- is that correct? -- in
5 Oak Ridge?

6 A Yes.

7 Q What other doctors other than your primary
8 care physician have you seen in the last ten
9 years?

10 A Oh, my God.

11 Q To the best of your recollection.

12 A Dr. Sheth is my cardiologist, Dr. William
13 Hall is my heart surgeon. What's my
14 gastroenterologist's name? Dean Conley is my
15 gastroenterologist.

16 Q Why do you see a gastroenterologist?

17 A Because when you get to be 50, you have to
18 have a colonoscopy every now and then.

19 Q Okay. Just for the colonoscopy, not for
20 any condition?

21 A Right. No, no complaint.

22 Q Any other doctors?

23 A That's it I guess.

24 Q Where is Dr. Sheth located?

25 A Oak Ridge.

1 Q There were -- in the documents that your
2 lawyers produced, there were multiple MLS
3 listings for houses and then a couple of
4 spreadsheets that showed essentially information
5 about houses that were on the market?

6 A Yes.

7 Q Are those documents related to the sales
8 analysis that Mr. Giltneane did back in 2008, or
9 are they something else?

10 A I believe they are. There's one
11 document that -- and I don't know how it got
12 in there -- that's another spreadsheet. You may
13 have seen it, but it's not related to best
14 market approach sales. It was more of a study
15 regarding property tax increase in the area to
16 see or show there are some inequities in the way
17 the properties were revalued, and it wasn't
18 related to the sale of the house at all.

19 Q Is that a spreadsheet that you prepared?

20 A No.

21 Q Who prepared that spreadsheet related to
22 the taxes?

23 A Matt Caldwell.

24 Q Matt Caldwell?

25 A Yes.

1 Q Why did he prepare that?

2 A Because he has property that he wanted
3 to -- he was preparing to appeal his property
4 tax rate increase, and he shared that with me.
5 He asked me if I'd like a copy and provided it
6 for me.

7 Q Do you know if Mr. Caldwell actually
8 appealed his property tax assessment?

9 A No, I don't.

10 Q Do you know of anyone -- I think you
11 mentioned earlier that, I guess, you had gotten
12 a date to appeal yours and then withdrew it
13 because some people were not successful when
14 they had appealed theirs?

15 A Correct.

16 Q Do you know of specific people that were
17 not successful?

18 A I believe Marshall and Wendy McFee is one
19 that come to mind.

20 Q Marshall and --

21 A Wendy, W-e-n-d-y, McFee, M-c-F-e-e.

22 Q Where do they live?

23 A Beaver -- Beaver Trail I think is the name
24 of the road up on the Tennessee River. They
25 have a house on the river.

1 Q How do you know the McFees?

2 A Wendy is my first cousin.

3 Q Anybody else that comes to mind when you
4 were mentioning?

5 A Not a specific name, other than just
6 general discussions.

7 Q Okay. Mr. Maines, I think those are all
8 the questions I have for you. I appreciate your
9 time. I don't know if you guys have any
10 follow-up questions.

11 MR. SHERK: I don't.

12 MS. FRY: Okay.

13 (Deposition session concluded at 2:29 P.M.)

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1 REPORTER'S CERTIFICATE

2 I certify that the witness in the
3 foregoing deposition, VIRGIL MAINES, was by me
4 duly sworn to testify in the within-entitled
5 cause; that the said deposition was taken at the
6 time and place therein named; that the testimony
7 of said witness was reported by me, a Shorthand
8 Reporter and Notary Public of the State of
9 Tennessee authorized to administer oaths and
10 affirmations, and said testimony, pages 1
11 through 198 was thereafter transcribed into
12 typewriting.

13 I further certify that I am not of
14 counsel or attorney for either or any of the
15 parties to said deposition, nor in any way
16 interested in the outcome of the cause named in
17 said deposition.

18 IN WITNESS WHEREOF, I have hereunto
19 set my hand the 8th day of September, 2010.



25 Katherine Gale, CSR, LCR #420
My commission expires: 2/27/2012

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E R R A T A

I, VIRGIL MAINES, having read the foregoing deposition, Pages 1 through 198, taken August 27, 2010, do hereby certify said testimony is a true and accurate transcript, with the following changes, if any:

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VIRGIL MAINES

Notary Public

My commission expires: _____

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In The Matter Of:
George Chesney, et al. v.
Tennessee Valley Authority, et al.

Barbara M. Phillips
September 2, 2010

Vowell & Jennings, Inc.
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615-256-1935



Original File 090210A.TXT
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

GEORGE CHESNEY; VIRGIL)
MAINES; WILLIAM GADDIS;)
DEBRA BURNUM; PATRICIA)
CORDELL; JAMES G.)
WORLEY; JEWEL H.)
FRANCIS; DONALD W.)
SIMON; and BARBARA M.)
PHILLIPS,)
)
Plaintiffs,)
)
vs.) CASE NO. 3:09-CV-09
)
TENNESSEE VALLEY)
AUTHORITY; GEOSYNTEC)
CONSULTANTS, INC.; and)
WORLEYPARSONS)
CORPORATION,)
)
Defendants.)
_____)

DEPOSITION OF:

BARBARA M. PHILLIPS

Taken on Behalf of the Defendants

September 2, 2010

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ALSO PRESENT:

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HEIDI STUBBS

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1 The deposition of BARBARA
2 PHILLIPS, taken on behalf of the Defendants, on
3 the 2nd day of September, 2010, at 9:01 A.M., in
4 the Law Offices of Cooley, Cooley & McFarland,
5 1021 Waterford Place, Kingston, Tennessee, for
6 all purposes under the Tennessee Rules of Civil
7 Procedure.

8 The formalities as to notice,
9 caption, certificate, et cetera, are waived.
10 All objections, except as to the form of the
11 questions, are reserved to the hearing.

12 It is agreed that Katherine Gale
13 being a Notary Public and Court Reporter for the
14 State of Tennessee, may swear the witness and
15 that the reading and signing of the completed
16 deposition by the witness are reserved.

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23 BARBARA PHILLIPS

24 was called as a witness, and after having been
25 first duly sworn, testified as follows:

1 P R O C E E D I N G S

2 MR. SHERK: Shall we make our
3 appearances?

4 I'm John Sherk. I'm with Shook,
5 Hardy & Bacon representing Tennessee Valley
6 Authority.

7 MS. FRY: Brantley Fry, with
8 Beasley, Allen on behalf of the Chesney
9 plaintiffs and Ms. Phillips.

10 MR. HOWELL: Dean Howell, Woolf,
11 McClane for WorleyParsons.

12 MS. LOWE: Ashley Lowe with Baker,
13 Donelson on behalf of GeoSyntec Consultants.

14 MS. WARD: Elizabeth Ward with TVA.

15 MS STUBBS: Heidi Stubbs with TVA.

16 E X A M I N A T I O N

17 BY MR. SHERK:

18 Q Good morning, Ms. Phillips.

19 A Good morning. Barbara Phillips from
20 Ten Mile.

21 Q Could you state your name and address for
22 the record, please?

23 A Barbara Phillips, 224 Blue Heron Way
24 Ten Mile, Tennessee 37830.

25 Q Ms. Phillips, once again my name is John

1 Sherk. I'm a lawyer representing TVA in this
2 case, and I'll be asking you most of the
3 questions today.

4 Okay?

5 A Okay. Uh-huh.

6 Q Have you ever had your deposition taken
7 before?

8 A No.

9 Q Let me give you a few basic ground rules.

10 All right?

11 A Okay.

12 Q The first thing is if you don't understand
13 my question, please let me know and I would be
14 happy to rephrase it for you.

15 Okay?

16 A All right.

17 Q You'll need to give a verbal response to
18 all of my questions.

19 Okay?

20 A Yes.

21 Q Otherwise it's difficult for our court
22 reporter --

23 A Yes, sir.

24 Q -- to take down what we're saying.

25 Now, next you'll have to allow me to

1 complete my question before you answer.

2 Okay?

3 A Yes, sir.

4 Q It makes it very difficult for Katherine
5 to get everything down that we say if we're
6 tripping over each other.

7 Okay?

8 A Yes.

9 Q I've done my best to make sure that we're
10 very targeted in what we talk about today, so
11 I'll make it go as quickly as possible.

12 Okay?

13 A Okay.

14 Q But if you want to take a break, please
15 just let me know, and we'd be happy to do that.

16 Okay?

17 A Yes, sir.

18 Q Great. Are you feeling fine today?

19 A Yes, I am.

20 Q And you're ready to respond to my
21 questions?

22 A Yes, I am.

23 Q Are you on any medications that would
24 impair your ability to give full and accurate
25 testimony today?

1 A No.

2 Q Okay. Did you review any materials or
3 documents in preparation for your deposition
4 today?

5 A Yes, I have.

6 Q What would those be?

7 A Maps, two maps, you know, of the different
8 Class A, Class B. I guess it was explained to
9 me how the class goes and about the three
10 defendants.

11 Q Uh-huh.

12 A Okay? That's about all in detail. The
13 maps stick in my mind most.

14 Q So you had a chance to meet with your
15 counsel?

16 A Yes.

17 Q How many meetings did you have in
18 preparation for today's deposition?

19 A Just one.

20 Q And was that meeting yesterday?

21 A Yes.

22 Q And who attended that meeting?

23 A Brantley and Paul, and I've forgotten his
24 last name, and myself.

25 (Marked Exhibit 1.)

1 BY MR. SHERK:

2 Q Ms. Phillips, you've been handed
3 deposition Exhibit No. 1. And I'll represent to
4 you that this is a copy of the consolidated
5 class action complaint in this case.

6 Do you see that?

7 A Yes, I do.

8 Q Is this a document that you reviewed in
9 preparation for today's deposition?

10 A Parts of it, yes.

11 Q Did you see this consolidated class action
12 complaint before it was filed?

13 A I'm sorry, will you repeat, please?

14 Q Certainly. Did you review this
15 consolidated class action complaint before it
16 was filed?

17 A No.

18 Q Just afterwards you had a chance to look
19 at it?

20 A Yes, sir.

21 Q Okay, very good.

22 (Marked Exhibit 2.)

23 BY MR. SHERK:

24 Q Ms. Phillips, you've been handed
25 Deposition Exhibit No. 2. And I'll represent to

1 you this is a document entitled Plaintiffs'
2 Responses to TVA's First Set of Interrogatories
3 to Plaintiffs George Chesney, et al.

4 Do you see that document?

5 A Yes.

6 Q Did you have a chance to review this
7 document before today's deposition?

8 A I think, yes, partially.

9 Q Very good. Now, the reason I bring these
10 documents to your attention, Ms. Phillips, is
11 because we'll be looking at these and referring
12 to them at different points in time this
13 morning, okay. So if at any time you'd like to
14 refer to them, just feel free to do so.

15 Okay?

16 A Okay.

17 Q Let's shift gears, though, before we get
18 to these document, and I'd like to learn a
19 little bit about you.

20 All right?

21 A Yes.

22 Q Are you married?

23 A Yes.

24 Q What's the name of your husband?

25 A William Edson Phillips.

1 Q William Edson Phillips?

2 A Uh-huh.

3 Q How long have you been married?

4 A 63 years.

5 Q Do you remember the date of your marriage?

6 A June 6, 1948. I guess it's 62 years,
7 isn't it? I'm thinking ahead.

8 Q In my experience, Ms. Phillips, that's a
9 date that wives always know and husbands always
10 struggle with. I'm not sure that -- I'm not
11 sure why that's the case. That's been my
12 observation, anyway.

13 This, then, is your only marriage?

14 A Right.

15 Q Your husband is not a named class
16 representative in this case; correct?

17 A I guess not. Is the name on here?

18 MS. FRY: You can just answer
19 Mr. Sherk to the best of your knowledge.

20 THE WITNESS: Okay. Again. Ask me
21 again.

22 BY MR. SHERK:

23 Q Your husband is not a named class
24 representative in this case?

25 A Oh, no, he is not.

1 Q And by that I mean looking at the top of
2 Exhibit No. 1, it lists the class
3 representatives.

4 A Right.

5 Q Do you see that?

6 A I see that, uh-huh.

7 Q Oh, what is your date of birth, I'm sorry?

8 A 6/6/1929.

9 Q Do you have children?

10 A Yes.

11 Q Can you please give me their names and
12 ages.

13 A William Phillips -- William J. Phillips,
14 he's not a junior. And date of birth?

15 Q Sure.

16 A Oh, boy.

17 Q Or approximate age.

18 A Well, he's 57. And Adam Phillips, Adam R.
19 Phillips, he's 33.

20 Q So you have two sons?

21 A Uh-huh.

22 Q No daughters?

23 A I had two daughters, but they've both
24 passed on.

25 Q Do either of your sons live with you now?

1 A No.

2 Q Are either of them in the general area?

3 A Yes.

4 Q Where do they live?

5 A Adam lives in the Swan Pond area on Quarry

6 Road.

7 Q And that is in Kingston?

8 A Harriman.

9 Q Harriman?

10 A Yeah.

11 Q And where does William live?

12 A Upstate New York. Olean, New York.

13 Q What does Adam do for a living?

14 A He works -- I can't think of -- between

15 here and Knoxville, there's a big grocery chain,

16 they just built a new building maybe about three

17 or four years ago. I can't remember, but it

18 will come to me.

19 Q So he works for a grocery business?

20 A Yeah. Wholesale.

21 MR. HOWELL: Pardon my interruption.

22 Are you thinking of HT Hackney?

23 THE WITNESS: Yes.

24 MR. SHERK: Thank you.

25 THE WITNESS: Thank you.

1 MR. HOWELL: No problem.

2 BY MR. SHERK:

3 Q Now, what does your son William do?

4 A He, right now, is unemployed. He's a
5 partial -- or substitute in the local schools.

6 Q He's a teacher?

7 A Yes, he's a teacher.

8 Q Yeah, this is not the best year for
9 teachers.

10 A Right.

11 Q Budgetwise, I think, across the country.

12 Do you have brothers or sisters?

13 A Yes.

14 Q Can you please tell me their names and
15 ages?

16 A Okay. Next to me is my sister Connie
17 Adams, and she is 73; Jim McKay, he is 67; and
18 Nancy Richards, and she is 63.

19 Q So McKay was your maiden name?

20 A Yes.

21 Q Do either Connie or Jim or Nancy live in
22 this area?

23 A Yes. Connie and Jim live here. Nancy is
24 in Florida.

25 Q Where does Connie live?

1 A In Oak Ridge.

2 Q Where does Jim live?

3 A Watts Bar Lake, near me.

4 Q And Nancy lives in what part of Florida?

5 A Tallahassee.

6 Q Let's take a look at Exhibit No. 2, and I
7 would direct your attention to page 9.

8 I've got the page wrong, page 13.

9 Ms. Phillips, I'd like to talk to you
10 now briefly about your educational history. And
11 I note that on page 13 of Exhibit 2, you do a
12 kind of a summary list of where you had gone to
13 school; correct?

14 A Yes.

15 Q Let's use that as a handy reference point,
16 and I'll ask you some questions.

17 Okay?

18 A Okay.

19 Q It looks like you graduated from high
20 school in the state of New York?

21 A Yes.

22 Q You went to Olean High School in Olean,
23 New York?

24 A Yes.

25 Q And that is currently where your son

1 William lives?

2 A Uh-huh. I mean yes.

3 Q You graduated from high school in 1947; is
4 that correct?

5 A Yes.

6 Q Then it looks as if you took a break for
7 some time?

8 A Yes, to raise my family.

9 Q So between 1947 and 1963, you had four
10 children?

11 A Yes -- no, I'm sorry, I have -- I'll have
12 to make a correction to be accurate.

13 Adam actually is her son, but he's
14 my son because we adopted him because she was
15 killed, so I had three children. And Adam is
16 number four. But he was unexpected.

17 Q So Adam was your sister's child?

18 A No, my -- my daughter's child.

19 Q Oh, okay. All right.

20 A So he is my -- you know, physically my
21 grandson, but we did adopt him officially, so
22 he's my son.

23 Q And that explains, then, the age
24 difference?

25 A Right. Yes, from 57 to --

1 Q 33?

2 A -- 33.

3 Q Right.

4 While you were living in Olean,
5 New York from 1947 to 1963, you had three
6 children?

7 A Yes.

8 Q Can you remember the approximate years
9 that your children were born?

10 A Let's see. Billy, '53; Becky in '54; and
11 Adam, let's see, about '75, I guess. Yeah,
12 because he was -- yeah, that's pretty good. I'm
13 81, and these dates are not right.

14 Q I completely understand.

15 Now, you had Billy in 1953, and one
16 of your daughters, Becky, in 1954?

17 A Yes, uh-huh.

18 Q Was there a third daughter?

19 A Mary Ann.

20 Q And when was she born?

21 A Probably '57, I think.

22 Q How long did she live?

23 A She died at 32.

24 Q When did Becky die?

25 A In 1979.

1 Q And she died in an accident?
2 A No, she was murdered.
3 Q Was that here in Tennessee or in a
4 different state?
5 A No, that was in Olean.
6 Q That was in New York, then?
7 A Uh-huh.
8 Q And Becky was Adam's mother?
9 A Yes.
10 Q Now, getting back to your return to school
11 in --
12 A 1963.
13 Q -- 1963. You went to St. Bonaventure
14 College?
15 A University, uh-huh.
16 Q Was that a commute from your house?
17 A Yes, uh-huh.
18 Q What did you study there?
19 A Math -- well, education. Math education.
20 Q And it looks like you got a Bachelor of
21 Science?
22 A Yes.
23 Q Then you went straight into graduate
24 school at Bonaventure University?
25 A Yes. I was teaching in '67, and they --

1 our school provided the money for the Master's
2 degree, they gave us five years, because you had
3 to have a Master's to have a permanent
4 certificate.

5 Q What school were you teaching at?

6 A Portville Central. I taught a little
7 bit -- I don't know how much is important.
8 Before I got out of school, out of college, I
9 was teaching Russian in Allegany where my
10 children go to school because they lost their
11 teacher to the government and --

12 Q They lost their Russian teacher?

13 A Yeah, uh-huh.

14 Q How did you learn Russian?

15 A Well, that was my -- that was my language
16 in college. It's kind of disappeared. Every
17 once in a while, I renew it, but you know, like
18 anything, if you don't use it, you forget about
19 it.

20 Q It kind of fades away?

21 A Yeah.

22 Q Did you ever think about a career in the
23 foreign service?

24 A No.

25 Q Teaching was your real interest?

1 A Yeah, my love, and my family. That was --
2 I'm sorry. That was a very short time, you
3 know, just to fill out the year to the end of
4 the school year. Then I started working full
5 time in math.

6 Q So you got your Master's from Bonaventure
7 in math in 1972?

8 A Uh-huh.

9 Q And then it looks as if you took another
10 break in your education until 1985?

11 A Yes. That's when we moved to Tennessee,
12 and I started working at Roane State Community
13 College, and I was working -- taking, you know,
14 all graduate courses there.

15 Q What sorts of courses did you take while
16 you were at Roane State?

17 A No, I taught at Roane State.

18 Q Oh, taught, I'm sorry.

19 A But math at Tennessee -- University of
20 Tennessee.

21 Q So from 1985 to 1987, you taught graduate
22 courses in math; is that right?

23 A From?

24 Q From '85 to '87?

25 A Oh, no. No. '85 to -- I just retired in

1 2008, I finally retired from Roane State
2 teaching math.

3 Q Oh, so from 1985 to 1987 you actually took
4 courses at University of Tennessee?

5 A Yes.

6 Q And after you received your -- your
7 studies there, after you completed those, you
8 went on to teach at Roane State?

9 A I was teaching at the same time.

10 Q Oh, okay. All right. Very good.

11 A They pay, again, for your courses, and so
12 I was taking them.

13 Q So the focus of your education, then, was
14 in education and math?

15 A Right.

16 Q Did you take much chemistry in school?

17 A In college you mean?

18 Q Yes.

19 A Just one year, or two semesters, yeah.

20 Q How about courses in physics or calculus?

21 A Yes. Well, lots in calculus. I can't
22 remember now, but physics one or two semesters.

23 Q Did you take courses in the environmental
24 sciences?

25 A Huh-unh.

1 Q Courses in toxicology?
2 A Huh-unh. I mean no. No.
3 Q Epidemiology?
4 A No.
5 Q Did you take courses in agriculture?
6 A No.
7 Q Let's shift gears again, Ms. Phillips, and
8 let's trace the places where you have lived.
9 And let's begin with where you are now and work
10 backwards in time.
11 Okay?
12 A Okay. May I ask a question?
13 Q Sure.
14 A I'm just wondering why -- you know, what
15 all this has to do with ash spill.
16 Q Well, it will become --
17 A Clear.
18 Q -- very clear, yes. Just like a math
19 problem. We'll solve it --
20 A We'll do a little at a time.
21 Q -- and the proof will become evident.
22 A I didn't know I was going to tell my life
23 history or I would have had the dates for you.
24 Q You're doing a great job.
25 A Okay.

1 Q So you have lived at your current
2 residence for quite some time?

3 A Where -- yeah, where we live now?

4 Q Right.

5 A We moved there -- we owned it in '88. We
6 moved there when Adam graduated from high
7 school, '95, so I've been there since '95.

8 Q And the address, again, was?

9 A 224 Blue Heron Way, Ten Mile.

10 Q Where did you live before 224 Blue Heron
11 Way?

12 A In Oak Ridge, 20 Moore Lane.

13 Q How long did you live there?

14 A We lived there 10 years. Adam was
15 finishing school.

16 Q So from 1985 to 1995?

17 A Uh-huh.

18 Q Where did you live before then?

19 A Olean -- no, Allegany, New York.

20 Q What were the years of your residence in
21 Allegany, New York?

22 A The address did you say? I'm sorry, I
23 didn't hear what you said.

24 Q What were the years of residence?

25 A Oh, gosh. Probably 30 years.

1 Q So 19 -- approximately 1965 to 1985?
2 A Uh-huh.
3 Q I guess that would be 1955, rather, to
4 1985. You'll have to correct my math,
5 Ms. Phillips.
6 A Yes, and mine.
7 Q Does that sound right?
8 A No, no. We were overseas in '54. No.
9 And then we just lived temporarily in '55 in a
10 little house. Do you need that address too?
11 Q If we could just establish the large chunk
12 of time you were in Allegany, New York, that
13 that would be fine.
14 A I would say '57 to '85.
15 Q Okay. Moving, then, to your employment
16 history, you testified just a little bit ago
17 that you retired from teaching in 2008?
18 A Uh-huh.
19 Q And you taught at Roane State in
20 Tennessee?
21 A Right. In Oak Ridge and Harriman.
22 Q How long did you teach there, how many
23 years?
24 A From '85 to, what, 2000 -- what did I say?
25 Q 2008.

1 A Yeah.

2 Q And you taught math?

3 A Uh-huh. Yes.

4 Q Where did you work before working at Roane
5 State?

6 A Portville Central School, school in
7 Portville, New York.

8 Q What were the dates of your employment
9 there?

10 A '67 to '85. Does that seem right? It was
11 18 years. Does that seem right?

12 Q That would be 18 years, correct.

13 A Yeah, uh-huh.

14 Q And before that you had taken some time
15 off to have children?

16 A Uh-huh. Yes.

17 Q And before your job at Portville Central
18 in New York, did you have any employment of
19 consequence or just the typical college things?

20 A I helped out at the school -- I did -- at
21 that time, where my children went to school,
22 they had two blind students, and so I learned
23 Braille, and I worked with them till they
24 graduated from high school. So, you know --

25 Q That was in the '60s?

1 A Yes, uh-huh. Yeah.

2 Q So it sounds as if your entire employment
3 career has been focused in the area of
4 education?

5 A Right.

6 Q You have never worked for the Tennessee
7 Valley Authority, it doesn't sound like?

8 A No, huh-unh.

9 Q And you've never worked for, you know, any
10 outside corporation or business?

11 A No.

12 Q Have you ever been injured at work?

13 A No.

14 Q Ever had a Workers' Compensation claim?

15 A No.

16 Q Did you ever feel that the environment at
17 your work has caused you to become ill or sick?

18 A No.

19 Q Have you ever worked at Y-25 in Oak Ridge?

20 A No.

21 Q Have you ever worked at Y-12 in Oak Ridge?

22 A No. Well, I taught classes there, but it
23 was through Roane State. So do you need that,
24 Y-12?

25 Q You went to the Y-12 facility to teach?

1 A Right, uh-huh.

2 Q During what period of time did you do
3 that?

4 A I would say around '90.

5 Q Just for one year?

6 A 1990, yeah, uh-huh.

7 Q Did you teach at any other government
8 facility like Y-12 in the course of your career?

9 A No.

10 Q How was it that you got the opportunity to
11 teach at Y-12 for one year in 1990?

12 A Okay. They needed -- some of the
13 employees needed a background in math, and the
14 plant provided it. And they asked me if I would
15 do it, and I did.

16 Q Did you need any special security
17 clearance to teach the class at Y-12?

18 A No. No. Other than you had to check in
19 and they would check me out. But I didn't have
20 to get -- you know, obtain anything special.

21 Q Did you have to wear any protective
22 clothing?

23 A No, huh-unh.

24 Q Did you have to wear a radiation badge of
25 any sort?

1 A No.

2 Q I take it, then, that you've never worked
3 in any kind of manufacturing business?

4 A No.

5 Q You've never worked in any automobile
6 manufacturing, for example?

7 A No.

8 Q You've never worked at a chemical plant or
9 a plant that makes paint products?

10 A No.

11 Q Have you ever worked around asbestos?

12 A No.

13 Q Have you ever worked in a nuclear facility
14 of any kind?

15 A No.

16 Q Is this the only lawsuit that you've ever
17 been a part of?

18 A Yes.

19 Q How did you get involved in this case?

20 A Well, I think my community, you know, at
21 first, I mean everyone was completely upset, and
22 my brother had attorneys who were friends, and
23 so a group of us met with those attorneys and --
24 I'm trying to be as accurate as I can, but
25 then -- I -- I think he became involved with

1 Beasley, Allen first.

2 Q Who, your friend did?

3 A No, my brother. I don't know how to put
4 this, and I guess I can't ask anything now, can
5 I?

6 Q You can just do your best to answer.

7 MS. FRY: Huh-unh. Just to the best
8 of your recollection.

9 THE WITNESS: Well, this is just an
10 opinion that I have, and I'm not sure. I
11 think -- anyway, he's the one that said we go to
12 Beasley, Allen.

13 BY MR. SHERK:

14 Q What's your brother's name again? I'm
15 sorry.

16 A Jim McKay. And I think there was -- and I
17 may be way wrong, so I probably shouldn't even
18 say this. But at one time he said -- I think he
19 said he was trying to sell our names. My
20 brother's a little mercenary, and --

21 DEPOSITION OFFICER: "My brother's a
22 little" -- what did you say?

23 THE WITNESS: Jim McKay. Mercenary,
24 I said, a little mercenary. And I -- I don't
25 know. That's -- they just -- I went along with

1 the -- you know, with the group, okay. Or we
2 did, my husband and I.

3 BY MR. SHERK:

4 Q It was then at your brother's
5 recommendation that the Beasley, Allen firm be
6 retained?

7 A Yes. Yes.

8 Q So as I understand it, the ash slide at
9 the Kingston facility occurred in December of
10 2008?

11 A Yes.

12 Q The community became upset?

13 A Yes.

14 Q And so you and other people in the
15 community met with lawyers?

16 A Yes, uh-huh.

17 Q Did you remember what firms besides
18 Beasley, Allen you met with?

19 A It was an Oak Ridge firm, and -- and
20 probably the names will come to me, but they
21 don't right now. I'm sorry.

22 Q Do you remember the criteria that your
23 brother used to ultimately come up with the
24 decision to retain Beasley, Allen?

25 A No, I don't.

1 Q Did he prefer a firm with a more national
2 presence?

3 A I don't know.

4 Q Your brother lives close to you, you said?

5 A Yes. He lives in the area, but I mean,
6 it's probably -- by road, it's 2 or 3 miles.
7 And then if we go by boat, it's a different
8 cove.

9 Q Is he a cove or two over from where you
10 live?

11 A Uh-huh. Yes.

12 Q How did you become involved in this
13 lawsuit as a class representative?

14 A Okay. Let me think how. I guess to the
15 best of my knowledge, we had a meeting -- an
16 initial meeting a year or so ago, or months ago,
17 and then I just found out that, evidently,
18 Beasley, Allen chose me.

19 Q Do you know why you were chosen?

20 A No. Do you know why?

21 Q This wasn't a position that you lobbied
22 for, then?

23 A No. No. In fact, I kept -- tried to get
24 out of it.

25 Q Since this case was filed, how frequently

1 have you spoken with your counsel?

2 A Only the one time and one -- but we've had
3 communication by mail, and I've responded to
4 that. No, twice. They came to look at our
5 house.

6 Q Okay.

7 A The initial meeting and then twice, came
8 to our house and then yesterday.

9 Q So it sounds like three meetings in total?

10 A Face to face, yes.

11 Q An initial meeting when you met the
12 lawyers along with your brother?

13 A Right.

14 Q Then a meeting at your house so that they
15 could look at your property?

16 A Right.

17 Q And finally the preparation meeting of
18 yesterday?

19 A Yes.

20 Q The meeting at your house, who attended
21 that meeting?

22 A Just Brantley and -- what's his name?

23 MS. FRY: Yeah. Just if you can
24 remember, but if you can't, that's okay.

25 THE WITNESS: And the gentleman. I

1 don't remember his name.

2 BY MR. SHERK:

3 Q In terms of keeping up with what's going
4 on in the lawsuit, how do you go about doing
5 that?

6 A They -- they correspond very regularly,
7 Beasley, Allen, uh-huh.

8 Q And this is by mail?

9 A Uh-huh.

10 Q Have you made any effort to communicate
11 with the other class representatives in this
12 case?

13 A No.

14 Q And feel free to look at the first page of
15 Exhibit 1 --

16 A Yeah. Right.

17 Q -- which lists everybody.

18 A The names are familiar, but that's all.
19 We've not communicated.

20 Q They're not social friends then?

21 A No, huh-unh. No, sir.

22 Q Did you ever have the opportunity to go to
23 a presentation made by Erin Brockovich in --
24 after the slide at the Kingston facility?

25 A No, I didn't. I wanted to, but something

1 else had appeared.

2 Q You had a conflict?

3 A Uh-huh.

4 Q Have you spoken with your family members
5 about your participation as a class
6 representative in this lawsuit?

7 A Just yesterday.

8 Q And what kind of feedback did you get
9 about that?

10 A Well, I called, first, my sister. She
11 lives in Oak Ridge, and she has a cabin at the
12 lake near us. And I said, I just need your
13 impact. And she said, It hasn't impacted me.
14 And then it occurred to me that they have turned
15 their cabin over to their children.

16 And I tried to call my niece who
17 lives in Oak Ridge and couldn't reach her last
18 night.

19 Q All right. So you talked to your sister
20 and reached out to your niece?

21 A Yes.

22 Q But without any luck?

23 A And then I talked to -- I'm sorry, you
24 said who did I talk to?

25 Q Correct.

1 A I talked to my brother and my husband; a
2 marina owner; Dr. Glenn Greer, who owns a cabin
3 near there; my next-door neighbor.

4 That's about it.

5 Q Your sister's name again is?

6 A Connie Adams.

7 Q Connie Adams. And Connie Adams had not
8 been impacted by the ash slide because she had
9 turned her cabin over to her children?

10 A Right.

11 MS. FRY: Object to the form.

12 BY MR. SHERK:

13 Q Now, you also spoke with your brother,
14 Jim; correct?

15 A Uh-huh.

16 Q And what kinds of things did he have to
17 say?

18 A Well, everybody -- I mean, they say the
19 same things. The people that I talk to and
20 represent, neighbors, friends, the people around
21 there, their complaint mostly is, well, the
22 value of their homes. They all feel very
23 strongly that -- and they've all had experiences
24 with people saying to them, are you kidding? I
25 wouldn't buy a house there. You know, remarks

1 like that.

2 Q Okay.

3 A The ones that have children worried about
4 their children being in the water, some refuse
5 to let them -- let them swim. I personally --
6 the first year, I didn't let my -- I have --
7 Adam has one child, and they have taken over his
8 sister-in-law's three children that -- the State
9 had taken the children away, and they took them
10 at Christmastime. So they've been around. And
11 I watch them very carefully. I do not let them
12 go in the shallow part because there's ash
13 there.

14 Q Do you let them go in the lake itself,
15 though, in the deeper areas?

16 A The deeper area. But then when they come
17 in, I bathe them and wash their hair. Where
18 before I thought the water did it and I didn't
19 have to.

20 Q Now, what -- what -- what are the names
21 and ages of Adam's four children?

22 A Autumn, 7, she's theirs; and Clara, 5;
23 Chapman, 3; and Miles, 2.

24 Q So Clara, Chapman and Miles are Adam's
25 stepsister's children?

1 A No. Sister-in-law,
2 Q Sister-in-law?
3 A Sister-in-law's children.
4 Q Has he adopted them?
5 A No. They have legal custody. They wanted
6 to keep them together.
7 Q And as I understand it, they visit you at
8 your property from time to time?
9 A Yes. I consider them, you know, my
10 grandchildren also. Well, my own grandchildren
11 are grown, and Adam -- you know, because of Adam
12 being my grandchild, Autumn is really my great
13 grandchild. But because he's adopted, she's my
14 grandchild.
15 Q I'm with you.
16 A A little confusing.
17 Q Does your brother have an opinion about
18 your being designated to be a named class
19 representative in this case?
20 A Yes. He thinks it -- he didn't realize
21 that, and he felt that it should be he.
22 Q That was the question I was going to ask.
23 I wondered if he might be a little bit jealous.
24 A Yes, I think he is, which makes me -- that
25 part makes me happy.

1 Q Did he give you any words of wisdom or
2 suggestions about how to conduct yourself today
3 at the deposition?

4 A No. Anybody that I talk to said that I
5 would do a good job, so hopefully they're right.

6 Q I believe you said you talked to a marina
7 owner?

8 A Yes, one of the marinas are good friends,
9 and so I just stopped in, and I just said --
10 now, they have a separate complaint, I think,
11 the businesses, but he told me about another
12 marina they have documented -- they have people
13 that will come and stay for a week. And they
14 have documented cases where they were called and
15 said that, We're canceling, we are not coming
16 because of the ash spill.

17 Two have closed completely, people
18 have lost their jobs. Larry, the one I talked
19 to, said that he hired 10 fewer people because
20 of the business, and another one just near --
21 another one that's closest to us went out of
22 business.

23 Q This is a marina owner?

24 A That I talked to yesterday?

25 Q Yes.

1 A Yes, uh-huh.

2 Q Is this in connection with the Blue
3 Springs Marina?

4 A Yes.

5 Q That's the marina that's pretty close to
6 your house?

7 A Yes, right.

8 Q It's still operational, though; right?

9 A Yes. And he said mostly because so many
10 of them are not serving dinners and, you know,
11 don't have the facilities. He said it has
12 grown, but it hasn't grown as much. The reason
13 it has grown is because the others are closing.

14 Q So they're getting some business in that
15 regard?

16 A Right.

17 Q Does it look like there's pretty many
18 boats in that marina?

19 A Oh, yeah. There's a lot of boats. A lot
20 for sale.

21 Q You also spoke with Dr. Glenn Greer, I
22 believe?

23 A Yes.

24 Q What type of conversation did you have
25 with him?

1 A Well, I started out by saying that I wish
2 that he could do this because, as a dentist, for
3 some reason he's been giving depositions. But
4 he just said, you know, the same things that the
5 people do about the children, about -- he's very
6 concerned about the house has lost value.

7 People there -- a lot of people
8 buy -- have bought there because it's a lovely
9 area, and they all -- a lot of them have bought
10 there because -- for investment purposes, and
11 you know, so that's a big concern to them.

12 And my husband, he reminded me -- I
13 had forgotten about this -- that when we were
14 going with the other firm, they wanted samples
15 around our house. And there were samples of,
16 you know -- he went over just even in a little
17 cove where you wouldn't think the water would go
18 and brought back a bottle that he showed me that
19 had globules of things and ash and all.

20 So -- but they said, well, you didn't
21 date it, and, you know, they didn't accept it.
22 But it's there.

23 Q And that was a different firm?

24 A Yes, uh-huh.

25 Q And that firm didn't accept the material

1 that your husband had collected?

2 A Because it wasn't dated and all that.

3 But, yeah, they said, yeah, they could see it.

4 Q So it sounds, Ms. Phillips, as if you've
5 talked to neighbors and friends in advance of
6 this deposition; correct?

7 A Right.

8 Q Have you done anything else to prepare
9 yourself to be a class representative in this
10 case?

11 A No. I guess my husband knew that I was
12 going to be, but somehow it didn't -- I didn't
13 understand until about two days ago or
14 something. I kept saying let me go home, find
15 someone else.

16 Q Then it was too late?

17 A Too late. My name was there.

18 Q And here you are?

19 A Here I am, yeah.

20 Q It's not that the bad, is it?

21 A No. And, you know, through the two years
22 since '88, we've talked and talked and talked to
23 people.

24 Q Since --

25 A So it wasn't just yesterday.

1 Q Since 2008?

2 A Right.

3 Q Is there a -- an Internet site that you
4 share with other people in the community to
5 communicate about the ash slide and its
6 ramifications?

7 A No, not in particular. Friends you talk
8 to, but that's not because of the ash spill.

9 Q Do you spend a lot of time on the
10 computer?

11 A Huh-unh, no.

12 Q Do you have your own Internet address?

13 A Yes.

14 Q You do?

15 A Uh-huh.

16 Q And have you used your Internet account to
17 communicate with others about this lawsuit?

18 A Only, probably, good friends, the Greers
19 and my brother.

20 Q The Greers are -- he's the dentist?

21 A Yes. Well, retired.

22 Q Do they -- does Mr. Greer live close to
23 you?

24 A Fairly close by boat, 2 miles around the
25 road.

1 Q Do you know his address?
2 A It's Ten Mile, Tennessee. Or where he
3 lives now?
4 Q Yes.
5 A Montreal Lane, Oak Ridge, Tennessee.
6 Q So he doesn't live on the lake?
7 A No, huh-unh.
8 Q Did he move?
9 A No.
10 Q And this is Dr. Greer we're talking about?
11 A Yes.
12 Q Did he ever live on the lake?
13 A Not -- not for his permanent home.
14 Q Oh, he had a vacation home?
15 A Yeah. It's a vacation home.
16 Q Did he sell that?
17 A No, he hasn't yet. He uses it.
18 Q Oh, he still uses it?
19 A Oh, yes.
20 Q Is that how you have occasion to see
21 Dr. Greer, is when he's at his vacation home?
22 A That, and we were friends in Oak Ridge,
23 been friends for years.
24 Q Are you familiar with the classes that are
25 being proposed in this case?

1 A Yes.

2 Q I take it you didn't have any input in how
3 the classes were crafted?

4 A No.

5 MS. FRY: Object to form.

6 BY MR. SHERK:

7 Q And feel free to take a look at Exhibit 1,
8 page 27. It shows the class definitions.

9 Do you see those?

10 A Yes.

11 (Marked Exhibit 3.)

12 BY MR. SHERK:

13 Q Ms. Phillips, you've been handed
14 Deposition Exhibit No. 3, and I'll represent to
15 you that this is a map of the Kingston area and
16 the Emory, Clinch, and Tennessee Rivers.

17 Do you see that?

18 A Yes, I see it.

19 Q I'll also represent to you that Exhibit
20 No. 3 does its best to trace the path of
21 property damage Class 2, and that's the dark
22 blue line that courses down the river.

23 Do you see that?

24 A Uh-huh. Yes.

25 (Marked Exhibit 4.)

1 BY MR. SHERK:

2 Q I'm going to hand you now, Ms. Phillips,
3 Exhibit No. 4, and I'll represent to you that
4 that's a big blowup of --

5 MS. FRY: Do you have another copy,
6 John?

7 MR. SHERK: Yeah.

8 Q -- Exhibit No. 3.

9 Do you see that exhibit,
10 Ms. Phillips?

11 A Yes.

12 Q Is that easier to read?

13 A Yes.

14 Q Are you able to locate your property,
15 place of residence, on Exhibit No. 4?

16 A Okay, yes. Because we are near Meigs
17 County, and so we're probably in that area.

18 Q Let me have you mark it with a red
19 Sharpie.

20 Okay?

21 A Okay. Let me see if there are any
22 other -- okay. So I would say right around in
23 here.

24 Q Can you label that for me, please?

25 A As Barbara's house?

1 Q Uh-huh.

2 A (Witness complies.)

3 Q Now, looking at -- oh, let me ask you a
4 couple questions about where you are in relation
5 to the Kingston plant.

6 Okay?

7 A Okay.

8 Q About how many miles by road is it from
9 your house to the Kingston facility?

10 A Okay. Now, I'm not really good, except I
11 know that my son who lives -- is this No. 1?
12 This is all of No. 1 on the other map, wherever
13 Quarry Road is, my son lives.

14 Q If you look at the -- the purple outline
15 on Exhibit 4 --

16 A Yes.

17 Q -- that's the boundary for property
18 Class 1.

19 A Okay. Well, my son lives up near Quarry
20 Road, I think. So I'm just guessing it's
21 probably right here. So it's 22 miles by road
22 to his house.

23 Q And he lives pretty close to the Kingston
24 facility; right?

25 A Yeah. He's 2 miles from it, so like 20

1 miles.

2 Q Why don't you mark approximately where
3 your son lives and label that, too, please, with
4 the red Sharpie pen.

5 A I see nothing that tells -- do you know if
6 that's Quarry Road or where the quarry is?

7 Q Just do your best.

8 A Just do my best, okay.

9 Q That's fine. If you'd label that for me,
10 that would be great, just so we know later what
11 that is.

12 A Okay.

13 Q So that's your son Adam Phillips' house?

14 A Uh-huh.

15 Q Does he have his own lawsuit?

16 A Yes, he does.

17 Q Does he have an individual lawsuit against
18 TVA?

19 A I think he does. I think it's an
20 individual one.

21 Q He's not a part of a class action, as far
22 as you know?

23 A No, not as far as I know.

24 Q Okay. How far is it by boat from your
25 house to the Kingston facility?

1 A Well, let's see. This is 304, and this
2 is, what, 40, that one is 40, so we would go
3 304 -- I'm going to the plant -- I don't go on
4 40, so it's before here that we turn. So it
5 would be around in here. You go under 40 to
6 that.

7 Q Right. I'm talking by boat, how far is it
8 from your house to the facility?

9 A Right. I'm just trying to think.
10 Probably 20 miles.

11 Q 20 miles by boat?

12 A Oh, by boat? By boat?

13 Q Yes.

14 A I have no idea.

15 Q No idea?

16 A I have no idea, uh-huh.

17 Q Have you ever taken a boat ride from your
18 house to the facility?

19 A Yes, uh-huh.

20 Q Would you ever take your boat up to the
21 intersection of the Clinch River and the
22 Tennessee?

23 A Yes, we have, uh-huh.

24 Q You've done that from time to time?

25 A Uh-huh.

1 Q Do you know how long that takes?
2 A It takes quite a while.
3 Q Does it?
4 A But I can't be exact. It's a long ride.
5 Q Okay. Getting back to the class
6 definitions again on page 27 of Exhibit No. 1.
7 Have you taken a look at the -- at the class
8 definition for the property damage Class 2?
9 A Yes.
10 Q Does that definition make sense to you?
11 A Yes.
12 Q Okay. Do you think that there are
13 refinements or additions that you would make to
14 property damage Class 2?
15 A Okay. Is it all right if I take time to
16 reread it?
17 Q Oh, please do, yes.
18 A Okay. Now, ask your question again.
19 Q Yes. Are there areas that are not
20 included within property Class 2 that you think
21 ought to be included?
22 A No. I think -- I believe it goes from
23 here to the dam, so --
24 Q That is all-encompassing, as you think it
25 should be?

1 A Well, as far as I know, as far as I'm
2 concerned. That's the only way I can answer
3 that. This looks like it should have problems.

4 Q You're pointing to the -- the Tennessee
5 River where it intersects the Emory?

6 A Right, uh-huh. Uh-huh.

7 Q Is it your thought, then, that Class B
8 might include a part of the Tennessee River
9 there?

10 A Yes. By looking at this map.

11 Q Why don't you draw where you think it
12 might go, Class B, with this blue Sharpie on
13 Exhibit 4.

14 A Okay.

15 If it's coming this way, why
16 wouldn't it go that way -- right? -- and into
17 the cove, and then up here? You haven't heard
18 from these people?

19 Q All right. Very good. Now, could you
20 put -- could you mark those additions in a --
21 you might just put your initials, maybe "BP
22 addition."

23 A You know, this is not official.

24 Q Right. No.

25 A This is just, you know, looking at the map

1 and knowing about the ash. I know it's there.

2 MS. FRY: John, I think it's probably
3 about a good time to take a break. It's been
4 about an hour.

5 MR. SHERK: Okay. Perfect.

6 Q So Ms. Phillips I think we'll take the
7 opportunity now to have a short break.

8 A Okay.

9 Q And we'll come back after five minutes or
10 so and get right to it.

11 Okay?

12 A All right.

13 (Recess.)

14 BY MR. SHERK:

15 Q Ms. Phillips, we're back on the record
16 after a short break. Are you still feeling
17 well?

18 A Yes.

19 Q Good. We had been looking at Exhibit
20 No. 4 and discussing property damages Class 2;
21 correct?

22 A Yes.

23 Q Let's take a look at property damage
24 Class 1 that is bordered in purple.

25 Do you see that?

1 A Yes.

2 Q Do the geographic boundaries of property

3 Class 1 make sense to you?

4 A Yes.

5 Q Would you suggest any refinements or

6 additions to that property class?

7 A The way it's written here? Is that what

8 you mean?

9 Q Correct, or the way it's outlined on

10 Exhibit 4.

11 A No. I'm very happy to see that Class 1,

12 and I trust that this is the way -- people have

13 probably spent a lot of time on it.

14 Q Your son Adam lives within property

15 Class 1; correct?

16 A Yes, uh-huh.

17 Q But I believe it was your testimony that

18 Adam Phillips has his own lawsuit?

19 A Yes. Uh-huh.

20 Q Do you know who his counsel is?

21 A I'm sorry, I don't. Do you have any

22 names?

23 Q That's fine.

24 A Okay.

25 Q Do you know what he is seeking in his

1 lawsuit?

2 A Well, first of all, their home value and
3 there's been damage as far as the -- he lives
4 near the quarry, and the trucks just, you know,
5 been more than a nuisance, and health, the
6 seven-year-old.

7 Q So he has making allegations with regard
8 to the truck traffic in the area?

9 A Uh-huh.

10 Q And that would be trucks carrying the
11 quarry rock to the Kingston facility?

12 A Yes.

13 Q And he has other concerns as well that
14 he's expressing in his lawsuit?

15 A Yes.

16 Q And these include health concerns, you
17 said?

18 A Yes.

19 Q And does he have health concerns on his
20 behalf as well as on behalf of his
21 seven-year-old daughter?

22 A Yes.

23 Q So he's bringing a number of different
24 claims in his case?

25 A Yes.

1 Q Did you ever discuss with your son Adam
2 whether he might prefer to be embraced within
3 the class action that you're a part of?

4 A No, I haven't.

5 Q Did he ever say to you why it is he wanted
6 to go his own way and file an individual lawsuit
7 rather than be a part of a class action?

8 A No. I think it's his wife's decision.

9 Q His wife made the decision, then, as to
10 who they would retain as counsel?

11 A Uh-huh.

12 Q "Yes"?

13 A Yes.

14 Q And also who -- what sort of lawsuit they
15 would bring?

16 A Yes.

17 Q What is her name?

18 A Charlotte.

19 Q Charlotte Phillips?

20 A Uh-huh. Yes.

21 Q Now, let's turn our attention to the
22 residency class which is stated on page 27 of
23 Exhibit 1. Are you familiar with that class?

24 A Yes.

25 Q What is it that those embraced within the

1 residency class are seeking?

2 A Well, the way I understand it, okay, is
3 that's the one that are not on the lake but
4 farther away. In my area, there are a few
5 houses that are away from the -- from the water,
6 but they have access.

7 I guess that might be covered in
8 another one within two miles from it. So I'm
9 probably not as accurate as I could be.

10 Q Thinking about property Class 2 that
11 you're a part of, how do you understand how we
12 would go about determining who was in that
13 class?

14 A Okay. I imagine the ones right on the
15 water, okay, and then the ones that have access
16 to it. I'm trying to think of the houses --
17 there's a dock that's theirs, and they're
18 welcome to come any time. It's written in their
19 contract.

20 Q I think you're referring to the fact that
21 those that have a dock on the river have to have
22 a permit to the dock; right?

23 A Yes.

24 Q So would it be those people that have
25 waterfront property or a dock permit?

1 A Yes.

2 Q Is that who you would imagine would be in
3 property Class 2?

4 A Yes.

5 Q And the residency class is something else;
6 correct?

7 A Right, uh-huh.

8 Q Now, you are a member of property Class 2;
9 correct?

10 A Yes.

11 Q You are not a member of property Class 1
12 or the residency class?

13 A Yes. That's correct.

14 Q That's your understanding?

15 A Uh-huh. My understanding.

16 Q Do you know James and Sandra Burnett?

17 A No.

18 Q They live at 374 Blue Spring Circle, Ten
19 Mile, Tennessee.

20 A I know the address, but I don't know them.

21 Q They are pursuing their own lawsuit
22 wherein they're seeking claims for personal
23 injuries and emotional distress and medical
24 monitoring.

25 Let me ask you this. Do you ever

1 think that you should be pursuing additional
2 claims besides just the property-based claim
3 that you're now pursuing?

4 A At this time, no.

5 Q Why is that?

6 A Because some of these incidents -- if
7 there is -- I mean, I know there is ash, but if,
8 say, I'm swimming and throughout years some
9 things come up that you don't know. I mean, a
10 lot of illnesses caused by, you know, medical --
11 caused by materials that are injurious don't
12 show up immediately, and it takes time. But I'm
13 not -- you know, at 81, I'm not too concerned
14 with that, as I would for my children, okay.

15 Q Now, as I understand it, you're not
16 pursuing claims for physical injuries in this
17 case?

18 A Right. Personally not.

19 Q And you are also not pursuing claims for
20 emotional distress?

21 A No. Yes. We are not.

22 Q And I understand you are also not, on
23 behalf of property Class 2, pursuing claims for
24 medical monitoring?

25 A That's correct.

1 Q That is your understanding?

2 A Uh-huh.

3 Q Have any of your neighbors resolved their
4 claims against TVA?

5 A Not to my knowledge.

6 Q Do you know anyone that lives around your
7 son Adam Phillips who has resolved his or her
8 claim against TVA arising out of the ash slide?

9 A Not personally. But some of the
10 neighbors' homes closest have been -- TVA's paid
11 for their homes.

12 Q Do you know any of those individuals who
13 had their homes purchased by TVA?

14 A No.

15 Q Have you talked to your pastor or minister
16 about this lawsuit?

17 A No.

18 Q Are you a member of a church in the area?

19 A No.

20 Q Have you talked to a psychiatrist or
21 psychologist about the ash spill?

22 A No.

23 Q Have you talked to a psychiatrist or a
24 psychologist about your involvement in this
25 lawsuit?

1 A No.

2 Q Have you ever heard of the Mays class
3 action?

4 A No.

5 Q Have you ever heard of a large lawsuit
6 called Auchard?

7 A No.

8 Q Let's shift gears now, Ms. Phillips, and
9 talk about the failure of the dike at the
10 Kingston facility on December 22, 2008.

11 Okay?

12 Where were you on December 22, 2008?

13 A I was at home -- we were at home. I was
14 at home.

15 Q When did you first hear about the ash
16 slide at the Kingston facility?

17 A Our son called us in the morning.

18 Q That would be your son Adam?

19 A Uh-huh, yes.

20 Q What was the substance of your
21 conversation with Adam on the morning of
22 December 23?

23 A Well, it was frightening at the time.
24 They had been at our house and left fairly late,
25 and when you give time -- you know, given time,

1 you think about what could have happened if they
2 were going by. And, of course, then you think
3 about what if it happened in the daytime with a
4 school bus or people coming and going to work
5 and how fortunate TVA was that it happened at,
6 what, 1:00, a couple -- 1:00, I think.

7 So it was scary.

8 Q Did you drive up to the Kingston facility
9 to see what the situation was?

10 A At first they wouldn't allow us.

11 Q So what kind of things did you do to keep
12 abreast of the developments of the facility?

13 A I read everything in the paper. I was
14 aware of Erin Brockovich coming. We -- well,
15 okay. That's about all right now. I can say
16 something about the health, but I'll -- if you
17 need to know.

18 Q What kind of things about the health came
19 into play back then, right after the spill?

20 A Our seven -- well, she was our
21 five-year-old granddaughter started exhibiting
22 asthma. And so they went to the pediatrician,
23 and he gave, you know, they thought -- gave
24 medication that she would take and an inhaler.

25 Then he thought -- my

1 daughter-in-law has been up -- I mean, she
2 should be here because she has dates and times.
3 But anyway, she decided if they came to her
4 house -- she came to our house, we'd take away
5 all medicine and see if anything happened at our
6 house medically, and she cleared up, everything
7 was fine. And when she went home, she did it
8 again.

9 So the pediatrician did feel it had
10 something do with the ash spill.

11 Q That the breathing problems had something
12 to do with the dust?

13 A Yes. And he documented that she was clear
14 at our house.

15 Q Did any of your neighbors go to the site
16 of the ash slide following -- immediately
17 following its occurrence?

18 A I think all of them did when they could,
19 when they were allowed to come through.

20 Q And did you go up there yourself when you
21 were allowed to go through?

22 A Yes, uh-huh.

23 Q About when was that?

24 A Oh, gosh. It was quite a while. Let me
25 see. It was in December. I think the first

1 time that we really went all around would have
2 been in the summer, maybe May or June or
3 something, where we made a complete circle
4 around looking at the devastation and all of
5 that.

6 Q That was you and your husband?

7 A Yes, uh-huh.

8 Q So five or six months after the slide
9 itself, you toured the area?

10 A Now, before, we could go to our son's,
11 they opened it up, but not to go all the way
12 around.

13 Q What route do you take from your house to
14 your son Adam's house?

15 A Okay. We go in the main entrance by the
16 plant and keep going. On the left -- there's
17 several ways to get to his house. You can go
18 right or left. We go left and turn on Quarry
19 Road.

20 Q So do you go around, then, part of the
21 facility?

22 A Yeah. You know, we go right by this and
23 then up -- you know, go like up here. You can
24 go this way, but we go up the Quarry Road.

25 Q How soon was Quarry Road opened after the

1 slide?

2 A Well, I think the road -- their road was
3 open almost immediately because they had to get
4 the rock and stuff. That's when the buses -- or
5 the trucks were starting.

6 Q Okay. What instructions, if any, did you
7 receive from TVA or other government agencies
8 right after the ash slide?

9 A Us personally?

10 Q Yes.

11 A None.

12 Q Nothing?

13 A Nothing.

14 Q Did you receive, you know, any kind of
15 bottled water from TVA?

16 A No.

17 Q Did you request any?

18 A No. They did, but we did not.

19 Q "They" is?

20 A In that area, Class 1, my son.

21 Q Your son Adam got bottled water?

22 A Uh-huh.

23 Q Did you receive any instructions about
24 changing the air filter on your heater and air
25 conditioner at your house?

1 A Not from them. We did it on our own.

2 Q Did you save those filters?

3 A No.

4 Q Getting back to the vial of material that
5 your husband collected after the spill, did you
6 save that?

7 A No.

8 Q So that just got tossed away?

9 A That just got tossed away.

10 Q Have you given your counsel any ash that
11 you've collected or filters that you've saved or
12 anything like that?

13 A No.

14 Q Now, do you believe that you have been
15 exposed to hazardous substances in fly ash as a
16 result of the ash slide on December 22, 2008?

17 A Yes.

18 Q How have you been so exposed?

19 A You mean -- you're talking about
20 physically or what?

21 Q Yes.

22 A Well, I think -- you know, it was on our
23 cars and, you know, when we washed it, oh, look
24 this.

25 I have to say one thing. I'm a

1 laid-back person, and I don't -- you know, stuff
2 that's not affecting me immediately, you know, I
3 don't get -- but I believe in right and wrong,
4 and, you know, I'm very -- feel very strongly
5 that TVA has been wrong because if they knew,
6 and the other companies that have written off on
7 it, I feel very strongly about that.

8 I don't think that I had experienced
9 anything other than that. We were all -- you
10 know, it was all talk, talk, talk. But I can't
11 think that -- I can't tell you ash came in my
12 house or anything like that. And we had no
13 physical problems.

14 Q Since the ash spill, have you asked any
15 doctor to perform medical tests on you to
16 determine whether or not you have been exposed
17 to hazardous substances in fly ash?

18 A No, I haven't, huh-unh. I was thinking
19 about it. We haven't, no.

20 Q Do you believe that you personally are at
21 a significantly increased risk for disease
22 because of your exposure to hazardous substances
23 in fly ash?

24 A No, not personally. If -- you know, if I
25 were younger, I think I would. But you know,

1 something's going to get us.

2 Q So if I'm understanding you correctly,
3 because you're 81, you are not as worried about
4 any exposures that you might have encountered;
5 is that correct?

6 A Personally, uh-huh.

7 Q And as a representative of property
8 Class 2, none of the people in that class are
9 requesting medical monitoring; is that your
10 understanding?

11 A As far as I know, uh-huh.

12 Q Do you think that there are people in
13 property Class 2 who ought to be receiving
14 medical monitoring?

15 A I know of one case. One person who went
16 to the doctor for other reasons had problems,
17 and they found a great deal of mercury. And
18 first we joked about it and said, you know, has
19 your wife been buying any thermometers lately,
20 and things like that.

21 And then he went away. They were
22 originally from Upstate New York, and he was
23 gone, I think, two weeks in New York. And then
24 when he came back, he came back to be examined
25 again, and the mercury had gone down. And since

1 then, he's gone the third time, not for that or
2 anything, but wondering about the mercury.

3 And, of course, since then he would
4 swim and be in the lake, and the mercury went
5 up. So that's the only case I know.

6 Q What is this gentleman's name?

7 A Larry Steidle. He's in Blue Springs.

8 Q He lives by the Blue Springs Marina?

9 A Uh-huh.

10 Q Is he employed in the area?

11 A He's the owner of Blue Springs.

12 Q Oh, okay.

13 Do you know whether any doctor has
14 indicated to him what the source of his mercury
15 exposure is?

16 A I think at the third time that they
17 thought maybe he should stay out of the water.

18 Q That's what this gentleman told you?

19 A Uh-huh. Yes.

20 Q Okay. You haven't spoken with his doctor,
21 though?

22 A No.

23 Q And he would be in property Class --

24 A 2.

25 Q -- 2?

1 A Uh-huh.

2 Q Besides that gentleman is there anyone
3 else that you believe ought to be entitled to
4 medical monitoring who would be a member of
5 property damages Class 2?

6 A No.

7 Q Are there areas of property damage Class 2
8 that you think would include people who ought to
9 be entitled to medical monitoring?

10 A Not really. I mean, I guess this was
11 done, and a lot of thought was given into it,
12 and I have to agree I think that it's probably
13 the correct thing. Maybe people -- you know,
14 living closer, it would be -- wouldn't hurt to
15 have them checked, but, you know, I feel a lot
16 of thought went into this, so I'll agree with
17 it.

18 Q Now, you indicated just a couple minutes
19 ago that you believe you've been exposed to fly
20 ash?

21 A Yes.

22 Q Do you think you were exposed to fly ash
23 before the ash slide on December 22, 2008?

24 A No. I never thought about it, no.

25 Q You mentioned you saw dust on your car.

1 When was that?

2 A Oh, immediately after.

3 Q For how long did the dust appear on your
4 car?

5 A Probably just that one time, because then
6 it was washed, and it was probably just the one
7 time.

8 Q Have you ever had the air at your
9 residence monitored for the presence of
10 hazardous substances in fly ash?

11 A No.

12 Q Have you ever had the soil on your
13 property monitored for hazardous substances?

14 A No.

15 Q Have you ever had the drinking water at
16 your residence tested for the presence of
17 hazardous substances?

18 A No.

19 Q And I believe you said that you have never
20 had any medical tests to determine whether or
21 not you have in some way been exposed to
22 hazardous substances from fly ash; correct?

23 A Correct, uh-huh.

24 Q Is that also true with your husband?

25 A Yes.

1 Q Is there any way you can objectively
2 confirm that fly ash from the ash slide of
3 December 22, 2008, got to your place of
4 residence?

5 A All right. Would you say that again,
6 please?

7 Q Sure. Is there any way for you to
8 objectively determine whether or not hazardous
9 substances in fly ash got to your residence
10 following the slide on December 22, 2008?

11 A Okay. For the community, things have
12 changed. You know, I can just assume.

13 My one next-door neighbor -- we
14 called him the world's greatest fisherman. I
15 mean, he would go out day and night and stay for
16 hours. And my New York son went with him and
17 wasn't happy staying that long. And always
18 would get 50 or 60 fish, believe it or not, and
19 cook it. And he doesn't go anymore. And I
20 asked him, you know, I said, Why don't you go
21 fishing? He said there are no fish. And so the
22 logical thing is to blame the fly ash for that.

23 The birds -- the ducks are fewer.
24 We've always had Blue Heron around our house,
25 and they're gone. You know, things like that

1 are what make me think that it's there.

2 And it just seems logical that it
3 would be there, the fly ash. Where did it go?
4 And it makes me very angry because right is
5 right and wrong is wrong. And you know, the
6 fact that -- it just seems like they're getting
7 away -- I mean, I don't want to hear about how
8 much they've spent in cleanup because it
9 wouldn't have been necessary, you know, if the
10 proper things had been done.

11 Q Have you kept abreast of the cleanup
12 efforts?

13 A Just through the newspaper and my son,
14 uh-huh.

15 Q And in your travels to your son Adam's
16 house, you've had the opportunity to view the
17 progress of the cleanup?

18 A Yes, uh-huh.

19 Q Do you think that the facility looks
20 better today than it did right after the spill?

21 A No. I think -- I mean, not because of the
22 cleanup, just -- it was just so devastated. I
23 think it looks -- I thought it was a very pretty
24 area, and it isn't that way anymore.

25 Q Can you see improvement since right after

1 the spill to this point in time?

2 A No.

3 Q You don't?

4 A I mean you can drive it now, but no.

5 Q You don't think things have gotten better
6 at the Kingston facility since the spill?

7 A No.

8 Q Going back to the presence of fly ash in
9 and around your property, as I understand it,
10 one neighbor has talked about the absence of
11 fish; is that correct?

12 A Uh-huh. Yes.

13 Q And you mentioned that there aren't the
14 Blue Heron that were present in your
15 observations, they're not there in the numbers
16 that they were before?

17 A Yes.

18 Q Okay. Anything else that you can think
19 of?

20 A Little -- little things: Neighbors,
21 community, has said, especially with little
22 children, you know, they go out and throw bread
23 crumbs and all that to the fish, and there just
24 aren't that many anymore.

25 Q Do you see people fishing around your area

1 of the Blue Springs Marina?

2 A Yes. But not as many.

3 Q Do you see people water skiing around the
4 area of the Blue Springs Marina?

5 A Same answer. Yes, but not as many.

6 Q Do you see people using their sailboats
7 around the Blue Springs Marina area?

8 A Yes. I don't -- they don't come past my
9 house as much, so --

10 Q You'd see them off in the distance?

11 A Yes.

12 Q Is that a big area for sailboating?

13 A Yes.

14 Q I think I touched upon this, but just to
15 make sure, Ms. Phillips.

16 You are seeking in this lawsuit
17 damages for the diminution in value of your
18 residence; is that correct?

19 A Yes.

20 Q Do you have a dollar figure in mind?

21 A No.

22 Q You, on behalf of yourself and property
23 damage Class 2 individuals, are not seeking
24 medical monitoring; correct?

25 A To the best of my knowledge, no one is.

1 Q Nor are you seeking damages for personal
2 injury or emotional distress?

3 A Best of my knowledge, no.

4 Q Okay. Are you seeking -- besides monetary
5 damages for diminution in value of your home,
6 anything else in this lawsuit on behalf of
7 property damage Class 2 individuals?

8 A I think -- I think no. I'm speaking for
9 the community and myself.

10 Q Would you like to see the Tennessee Valley
11 Authority facility be shut down?

12 A Oh, yes. Is that possible? Yes.

13 Q Would there be anything short of shutting
14 it down that you would like to see happen?

15 A I would like inspections more often, and I
16 would like a different way to get rid of the
17 ash. I would like to see some people lose their
18 jobs. There have been lost jobs because of this
19 around my area.

20 Q Those people would be presumably
21 individuals employed by the defendant in this
22 case?

23 A Well, no, the marinas. I don't think
24 they're -- you know, the marinas is what I mean,
25 yeah. There are several, and so there have been

1 job losses there.

2 Q So you would like to see others lose their
3 jobs as well?

4 A Well, TVA, yes.

5 Q I just want to make sure that it is your
6 place of residence that you -- that is the
7 property that you have put at issue in this
8 lawsuit; is that correct?

9 A Yes. Along with the others in the
10 community.

11 Q But you personally, that's the only
12 property that you possess within the area that
13 is the subject of this lawsuit?

14 A Yes.

15 Q There's no other property that you own
16 that would fall within Class 1 or Class 2 that
17 is at issue?

18 A No.

19 Q Just wanted to make sure that I wasn't
20 missing something.

21 When did you purchase your property?

22 A About 1988.

23 Q And you've lived there continuously ever
24 since?

25 A We didn't move in until -- oh, wait a

1 minute. Did I say '88?

2 Q Yes.

3 A Oh, okay. We didn't move in until '95,
4 until Adam was out of school.

5 Q So you purchased it in '88?

6 A Uh-huh.

7 Q But you didn't move in until '95?

8 A Right.

9 Q And that was to allow Adam to graduate
10 from high school?

11 A Uh-huh.

12 Q In '95?

13 A Yes.

14 Q The property is used for residential
15 purposes only?

16 A Yes.

17 Q And when you moved in in 1995, did you
18 sell your house in --

19 A Oak Ridge.

20 Q -- Oak Ridge?

21 A Yes.

22 Q Thank you.

23 Are you currently residing at your
24 property?

25 A Yes.

1 Q Who resides there with you?

2 A Just my husband.

3 Q Were just you and he present in your home
4 on the date of the ash slide?

5 A Yes.

6 Q And have you both lived continuously at
7 your property since then?

8 A Yes.

9 Q Do you take frequent vacations?

10 A Yes.

11 Q Say, how many weeks of the year would you
12 be gone from your property in Tennessee?

13 A Probably two weeks at the most, you know.

14 Q Is there any particular place you go?

15 A Well, we go to Olean for family, weddings
16 and funerals and events. We travel to Alaska
17 and Europe.

18 Q How is it that you chose the property that
19 you ended up with --

20 A Okay.

21 Q -- in Ten Mile?

22 A Probably about '67 it belonged to my
23 father. And when he -- in his will, he left it
24 to the four of us. And at first we were going
25 to sell it. My husband and I owned a small

1 cabin around another cove at the same time, and
2 we always knew that we would move out when Adam
3 graduated, and -- when he graduated, and the
4 cabin would need a lot of work.

5 And we decided, well, why wouldn't
6 we sell the cabin and move into the bigger house
7 on a better lot, and it was all right with my
8 siblings. And you know, I didn't have to pay a
9 fourth of the share.

10 Q So your father owned the property that you
11 now own?

12 A Uh-huh.

13 Q Correct? Your -- you and your siblings
14 owned a cabin in a different location?

15 A Just us, in a different location, uh-huh.

16 Q So do you -- did you buy -- just you and
17 your husband bought your father's property?

18 A Yes.

19 Q Your siblings were not a part of that
20 deal?

21 A No. It was for sale for all of us, but
22 when we decided that we could buy it, they were
23 very willing to sell it to us. So we only had
24 to pay three-fourths of the selling price
25 because one-fourth was my inheritance.

1 Q So we're talking about 224 Blue Heron Way?

2 A Yes.

3 Q Were your siblings okay with that
4 arrangement?

5 A Yes. They were very happy.

6 Q And did they keep the other property, or
7 did they sell it?

8 A No, that was ours. And we sold that.

9 Q What was attractive to you about 224 Blue
10 Heron Way?

11 A The area and the lakefront. We have quite
12 a lot of lakefront. And the house was bigger
13 and --

14 Q So the house was already there when you
15 bought it?

16 A Yes, uh-huh.

17 Q Was your husband still working at the time
18 that you bought the house at 224 Blue Heron Way?

19 A Yes.

20 Q Where did he work?

21 A He worked in Oak Ridge. He had a
22 realty -- he worked for Realtors for a while,
23 and then he had his own real estate business.

24 Q When you bought the property, you were
25 aware that the Kingston facility was upstream

1 from you?

2 A Yes.

3 Q We talked about how far the Kingston
4 facility is from your house by car. I believe
5 you said it was about 22 miles?

6 A Probably 20, take the 2 miles off from my
7 son.

8 Q But you couldn't venture a guess about how
9 far by boat?

10 A I couldn't.

11 Q Can you see the Kingston facility from
12 your property?

13 A No.

14 Q Not even the two very tall stacks?

15 A No. We can see it when we're out on the
16 boat out far, you know, maybe -- I don't know if
17 you're familiar with Thief Neck Island.

18 Q Now, you have to get quite a bit closer to
19 the facility than Thief Neck Island to see it,
20 don't you?

21 A No, I've seen it from there. You know,
22 going around the one bend around it.

23 Q Being on the north side of Thief Neck
24 Island; correct?

25 A Uh-huh. Yes.

1 (Marked Exhibit 5.)

2 BY MR. SHERK:

3 Q And, Ms. Phillips, you've been handed
4 Deposition Exhibit No. 5, and I'll represent to
5 you that this is an aerial photograph taken on
6 April 17, 2008, at the approximate area where
7 your house is located.

8 Do you see Exhibit 5?

9 A Do I see --

10 Q You got that in front of you --
11 correct? -- Exhibit 5?

12 A Yes, uh-huh.

13 Q Do you recognize anything on Exhibit 5?

14 A I assume this is Blue Springs Marina.

15 Q Yes.

16 A And this is --

17 Q Yeah, it's not the clearest photograph in
18 the world, is it?

19 A No, but --

20 Q You can make out Blue Springs Marina?

21 A Yeah.

22 Q Can you circle that in red for me?

23 A In red?

24 Q Uh-huh.

25 A Okay.

1 Q Where would your house be located,
2 approximately?

3 A Okay. I think about here.

4 Q Okay. Go ahead and mark that. And just
5 put "BP house."

6 So your house is in a cove, it looks
7 like; correct?

8 A Yeah.

9 Q Can you see the Blue Springs Marina from
10 your dock?

11 A Yes.

12 Q You do have a dock?

13 A Yes.

14 Q Does your neighborhood have a name?

15 A Yes. Halfmoon Shores.

16 Q How would you describe your neighborhood?

17 A Very pleasant neighborhood. Quiet, lovely
18 homes.

19 Q Does it have a wide range of homes in
20 terms of how much they're worth?

21 A Yes. I would think so, uh-huh.

22 Q Do most houses on the water have docks?

23 A Yes. All -- I'm sure all of them do.

24 Q How close are the houses in your area of
25 Halfmoon Shores?

1 A They all have -- I'm trying to think.
2 Like we're about a half acre. It's a pretty big
3 lot, and so is the neighbor next to me. And the
4 one on the right, we owned their land. And when
5 we were not going to -- when we were selling the
6 whole house, at that time, my brother decided
7 that had we'd take the empty lot and sell it to
8 a friend. And since then it's been sold, and
9 they're a little bit closer than anyone else to
10 us. Well, it's because their house is very big,
11 an A-frame house.

12 Q You lost me there a little bit.

13 A I lost you? Okay. I know I should only
14 answer the questions that you ask.

15 Q That's fine.

16 A All right. Sorry.

17 Q You own your house and lot; correct?

18 A Yes.

19 Q And it's a generous-sized lot?

20 A Yes.

21 Q Okay. Half acre you said?

22 A Yes.

23 Q Did you, at one point in time, own the
24 neighboring lot as well?

25 A Yes.

1 Q But then did you own that neighboring lot
2 with your brother Jim?

3 A And my sisters, yes.

4 Q That was part of the property that you
5 purchased from your father?

6 A Well, we sold that part before buying the
7 house.

8 Q Got you. Okay. So on that property that
9 you sold along with your siblings, someone else
10 built a pretty good-sized house?

11 A Yes.

12 Q An A-frame house?

13 A Yes.

14 Q That's been there for a while now?

15 A Yes.

16 Q So that's the closest house to you?

17 A Uh-huh, yes.

18 Q What mile marker on the Tennessee River
19 are you closest to?

20 A Oh, gosh.

21 Q Would more be on Exhibit 4 than that
22 little photograph?

23 A Okay. 548 and 540. I'm not good -- this
24 is Thief Neck Island, I believe.

25 Q Thief Neck Island would be the island;

1 correct?

2 A Yes, probably.

3 MS. FRY: Ms. Phillips, can you speak
4 up a little bit so --

5 THE WITNESS: Oh, okay. I would say
6 547.

7 BY MR. SHERK:

8 Q Okay. All right. Does the cove that you
9 live in have a name?

10 A Yes. I'm sorry, I can't think of the
11 name. Yes, it does. I wish I knew --

12 Q Ms. Phillips, let me see if I can help out
13 a little bit here.

14 (Marked Exhibit 6.)

15 MS. FRY: Do you have an extra copy?

16 BY MR. SHERK:

17 Q I can show you, Ms. Phillips, now Exhibit
18 No. 6, and I'll represent to you that this is a
19 blowup version of Exhibit No. 5.

20 Now, can you circle the Blue Springs
21 Marina for me on this map?

22 A (Witness complies.)

23 Q Okay, good. And can you locate on this
24 larger Exhibit 6 the approximate location of
25 your house?

1 A I think maybe it's down here because we
2 can see Blue Springs, and there's a little
3 teenie cove here, and then it goes around -- and
4 it goes in here. I think it's here. Help.
5 See, I put it in the wrong place here.

6 Q Are you certain of this?

7 A No. I can't read it. Can somebody --

8 Q Just do your best. It's okay.

9 A Okay. All right. At first I said here on
10 this map because I know it comes this way. But
11 because I think of this and this and --

12 Q Now, that's the very end of the cove?

13 A Is it? So then I think we're at the very
14 end, so I'll put it here. Okay?

15 Q Okay. Go ahead and label that for me.

16 A Are you going to put me in jail if I --

17 Q No.

18 How would you describe your house?

19 A Well, it's very comfortable. It's very
20 pretty. We have added onto it. There's a
21 lovely enclosed deck. We've had to replace
22 things, we added onto it before we moved in.
23 Since then, you know, thinking ahead that we may
24 have to sell it, it has a new roof, air
25 conditioning gave out this summer, and we're

1 having the bathrooms repaired.

2 I think it's a very pleasant house.

3 Pretty, looks out the lake, beautiful view.

4 Q Is this a house that your father built?

5 A Yes.

6 Q Did he do it himself, or did he have it
7 contracted?

8 A He had it contracted.

9 Q About what year was it completed?

10 A Probably 1967. He was one of the -- I
11 don't know if you know the history -- he was one
12 of the first ones that built there, a permanent
13 home.

14 Q He was one of the first homeowners in
15 the --

16 A Halfmoon Shores area.

17 Q Halfmoon Shores area?

18 A Uh-huh.

19 Q And Halfmoon Shores is right by the Blue
20 Springs Marina, not too far, anyway?

21 A Not too far.

22 Q What type of construction is your house?

23 A Can you give me an example?

24 Q Brick, wood, cinderblock?

25 A Oh, wood.

1 Q It's a wood house?

2 A One floor, but a finished basement.

3 Q Approximately how many square feet?

4 A I wish I could have brought notes in. I
5 have no idea. It's -- gosh.

6 MS. FRY: That's okay. Just to the
7 best of your knowledge.

8 THE WITNESS: Best of my knowledge?
9 How big is this?

10 BY MR. SHERK:

11 Q Let me ask just a couple more questions
12 about your house, and we'll take a break. Okay?

13 A Okay.

14 Q How many bedrooms does your house have?

15 A Three.

16 Q And how many bathrooms?

17 A Three.

18 Q It's been about an hour. Let's take a
19 five-minute break. Does that sound good?

20 A Okay.

21 (Recess.)

22 BY MR. SHERK:

23 Q Ms. Phillips, we're back on the record
24 after a short break. Do you feel refreshed?

25 A Yes.

1 Q I do too, so we should be in good shape to
2 continue.

3 Couple follow-up questions from some
4 things we touched upon earlier this morning.

5 You mentioned your granddaughter who
6 lives with your son Adam; correct?

7 A Yes.

8 Q They live closer to the Kingston facility?

9 A Yes.

10 Q You mentioned that she was diagnosed with
11 asthma; is that right?

12 A Yes.

13 Q Was that a condition that she had had
14 before the ash slide?

15 A No.

16 Q You mentioned that the condition was
17 documented?

18 A Yes.

19 Q Okay. Who documented it?

20 A The pediatrician that they have.

21 Q Do you know the name of the pediatrician?

22 A I did, but I don't now.

23 Q Okay.

24 A I can get that, but I don't have it with
25 me.

1 Q Sure, that's fine.

2 You also mentioned that she was given
3 an inhaler?

4 A Yes.

5 Q Does she still use an inhaler?

6 A Yes.

7 Q Okay. You also mentioned earlier this
8 morning that your husband took a sample of
9 material believed to be ash?

10 A Uh-huh.

11 Q Where did he get that sample?

12 A In -- just around the corner from our
13 house in the little cove.

14 Q From the water?

15 A Yes, uh-huh.

16 Q And did he -- after he took that sample,
17 he saved it; correct?

18 A Yes.

19 Q But it wasn't dated?

20 A It wasn't dated.

21 Q So some lawyer said, I can't use it, it's
22 not dated?

23 A Right.

24 Q And you don't remember who they were?

25 A It's -- do you know? You don't know

1 anyone in Oak Ridge, attorneys?

2 MS. FRY: You don't have to ask him.
3 It's just to the best of your knowledge. He
4 can't answer the question for you.

5 THE WITNESS: Oh, why not?

6 MS. FRY: I'm sure he would like to.

7 BY MR. SHERK:

8 Q So in any case, the memory of that law
9 firm escapes you today?

10 A Okay. No. I can -- when we take the next
11 break, I can call my husband.

12 Q Oh, that's fine. Okay. Since taking that
13 sample, has your husband taken any more samples?

14 A No.

15 Q Do you know why that is?

16 A Well, when this was new, you know, and
17 everybody was upset, I think more things were
18 done. And now, as I said, we're both laid back,
19 you know, we don't sweat the small stuff. And
20 of course it's not small to the community and
21 it's not small to me, but I don't daily think of
22 these things.

23 Q All right. Let's -- let's move back to the
24 discussion we were having about your house at
25 224 Blue Heron Way.

1 Okay.

2 MR. SHERK: Let me mark a couple of
3 exhibits that may help us.

4 (Marked Exhibits 7 and 8.)

5 BY MR. SHERK:

6 Q Ms. Phillips, you've been handed
7 Deposition Exhibits 7 and 8; correct?

8 A Yes.

9 Q Do these exhibits show your property at 224
10 Blue Heron Way?

11 A Yes.

12 Q I'll represent to you that these
13 photographs were taken September 1, 2010, and
14 they depict your property and dock; is that
15 right?

16 A Yes.

17 Q Exhibit 7 shows it looks to be the back of
18 your house?

19 A Yes.

20 Q Is that the screened-in porch that you
21 described earlier?

22 A Yes.

23 Q Is that a -- is it glassed in or screened
24 in?

25 A Just screened in.

1 Q Screened in, okay.

2 A Uh-huh.

3 Q And that is your dock depicted in the

4 photograph, 7?

5 A Yes.

6 Q Is that your boat that's on the dock?

7 A Yes.

8 Q What kind of boat is that?

9 A Pontoon. It's a -- I can't remember --

10 Q Do you have a pool at your house?

11 A No.

12 Q And a finished basement, I believe you

13 said?

14 A Yes.

15 Q What is your foundation made of?

16 A Cement.

17 Q Okay. You have, it looks like, a big

18 screened-in porch, as we talked about, in the

19 back of your house.

20 Is there also a patio of any kind?

21 A A small one way over to the right

22 downstairs, off the basement.

23 Q And you're looking at Exhibit 7?

24 A Yes.

25 Q Have you replaced the windows in your

1 house since your father built the house?

2 A Yes, every window.

3 Q You replaced all the windows?

4 A Uh-huh.

5 Q During what period of time was that done?

6 A That was before we moved in in '95 or so,

7 that summer.

8 Q Are they -- they're good, well-sealed

9 windows?

10 A Yes, uh-huh.

11 Q What sort of air conditioning system do

12 you have?

13 A It's a heat pump.

14 Q A heat pump?

15 A Uh-huh.

16 Q And do you also have window units?

17 A No.

18 Q I'm just looking at Exhibit 7.

19 A Oh, that's my husband's workshop off --

20 yeah, he has a little window. But that's a

21 separate --

22 Q Separate part of the house?

23 A A separate part of the house, uh-huh.

24 Q What sort of shop does he have? A machine

25 shop?

1 A Uh-huh, wood shop mostly.

2 Q So he makes furniture?

3 A He can, yeah.

4 Q What sort of flooring do you have in your
5 house?

6 A Well, it's carpeted throughout.

7 Q What is your source of water?

8 A City, Kingston.

9 Q Kingston Water Supply?

10 A Uh-huh.

11 Q Okay. I believe you said that you have
12 added onto your house since purchasing it from
13 your father?

14 A Yes.

15 Q What kind of add-ons have you done?

16 A Well, in the front, we extended what were
17 two -- let me see, what were two small bedrooms.
18 We made them bigger -- we made two bigger
19 bedrooms, just extended them out. And what was
20 my -- the original is like a sewing room,
21 computer room, and the other one is a little
22 sofa.

23 I had -- my mother lived with us for
24 a while, so we wanted her to have her own space.

25 Q I believe you said you added a new roof;

1 correct?

2 A Yes.

3 Q And you're rehabbing the bathroom?

4 A Oh, yeah, just now.

5 Q Okay. Do you have any other home
6 improvement projects planned for your house?

7 A Probably. This is pretty expensive with
8 the bathrooms. I'd like to have new carpeting,
9 but it will be a while.

10 Q Do you run any kind of business out of
11 your home?

12 A No.

13 Q How does your house compare to the other
14 houses in your neighborhood?

15 A It's not as elaborate as some of them.
16 There are some very big and beautiful houses,
17 but it's a good size compared -- it's a nice
18 house.

19 Q Compares favorably with the neighborhood
20 as a whole?

21 A Oh, yeah.

22 Q Do you have pets?

23 A Uh-huh.

24 Q What sorts of pets do you have?

25 A Right now, one blind dog Labrador, our

1 last dog.

2 Q Do you have photos or videos of your
3 house?

4 A Yes.

5 Q Have you provided those to your counsel?

6 A No.

7 Q How would you describe how you spend your
8 time at your house?

9 A Well, I e-mail my friends, I do sewing,
10 sometimes I take a class, I do a lot of reading,
11 boating. I don't -- I used to make clothes for
12 the children, I don't anymore. My husband
13 paints. Enjoy. We enjoy our lives very much at
14 the moment.

15 Q Do the weekends vary from the weekdays
16 much?

17 A A little. He golfs always on Sunday and I
18 go to church, and sometimes I mind the children.
19 This -- well --

20 Q You're both retired now; correct?

21 A Yes, we're both retired.

22 Q So the weekdays aren't as dramatically
23 different as the weekends?

24 A Oh, no.

25 Q Where do you spend most of your time when

1 you're at home?

2 A In the summer, except for this summer, I
3 would be on the porch. But it's been really --
4 as you know, it's been too hot and the humidity.
5 But otherwise -- so I've stayed in one of the
6 little rooms attached to the bedroom where the
7 sewing machine is, the computer.

8 Q So for hobbies you do sewing, as I
9 understand it?

10 A Uh-huh.

11 Q And do some computer usage?

12 A Uh-huh.

13 Q Anything else?

14 A Photography.

15 Q Your husband paints?

16 A Uh-huh.

17 Q And he also has a working place at the
18 house?

19 A Uh-huh.

20 Q Any other hobbies that you and your
21 husband engage in?

22 A I mentioned his golfing.

23 No. I do a lot -- this summer, I
24 minded the two older girls all summer long
25 whenever their mother was out of town, and they

1 had a church program, and I didn't mean to be
2 there, I thought, oh, good, 9 to 12 I won't have
3 the girls. But I ended up volunteering. I only
4 missed two days. So that was it.

5 Q That was a commitment, it sounds like.

6 A But I am a commitment phobia. If I say
7 I'm going to do it, I do it.

8 Q It looks like you've got a nice yard at
9 your house?

10 A Yes.

11 Q Who takes care of the yard?

12 A My husband does.

13 Q Do you do any of the outside work on your
14 house?

15 A Uh-huh. I do a lot.

16 Q You do yourself?

17 A Did I?

18 Q Yes.

19 A No, not on -- oh, the gardening? Sure.

20 Q So you do the flowers?

21 A Uh-huh, weed them and stuff, uh-huh.

22 Q Do you take care of the bushes as well?

23 A He does. I don't do that.

24 Q Do you have a garden at your house?

25 A We have -- I have I small one.

1 Q Is it a flower garden?

2 A No, it's vegetable, tomatoes and squash,

3 peppers. See, we don't have a great deal of

4 constant sun, so it's --

5 Q Where is your garden located?

6 A About right in here.

7 Q Looking at Exhibit 7.

8 A If you took it in September, probably was

9 the remains of it, you know.

10 Q So in a place where it gets some sun?

11 A Yes.

12 Q So you grow tomatoes, squash, peppers?

13 A Uh-huh.

14 Q Anything else?

15 A No.

16 Q Was it a good year?

17 A This year it was too hot, really.

18 Q Oh, really?

19 A But we did have nice tomatoes.

20 Q Is it an organic garden, or do you use

21 fertilizers, et cetera?

22 A No. Organic.

23 Q Do you wear gloves when you're gardening

24 or just whatever?

25 A No, I don't wear gloves. Wash our hands

1 afterwards.

2 Q Do you do much entertaining at the house?

3 A What do you call "much"?

4 Q Well, do you frequently entertain?

5 A Yes.

6 Q How so?

7 A Mostly dinners.

8 Q Okay. Friends and family mainly?

9 A Uh-huh.

10 Q Do you have them over to be outside or
11 inside?

12 A Other years it's been outside, but this
13 was a very unusual year.

14 Q With the scorching heat and humidity, it's
15 better to be inside?

16 A Better to be inside, uh-huh.

17 Q Now that you're moving toward fall, are
18 you anticipating having people over for outside
19 events?

20 A Probably, if we get a little breeze.

21 Q Do you mainly gather on the screened-in
22 porch?

23 A Yes.

24 Q Do you have a picnic table on the patio
25 outside, or anything like that, that you use to

1 entertain guests with?

2 A Yes.

3 Q Does your styles of entertaining vary by
4 the season?

5 A Not a great deal.

6 Q You can get outside even in the winter
7 months?

8 A Yeah.

9 Q Do you exercise regularly?

10 A Walk. That's it. And swim.

11 Q And where do you swim?

12 A I swim right there at the end of the dock.

13 Q How often do you get in the water to swim?

14 A Well, this summer was -- I mostly
15 floated -- I kept the children -- see, this is
16 the deeper end here, off the dock. Here it's
17 shallow, and I didn't want the children, you
18 know, to be in that area. So we mostly stayed
19 right around here, where they could be -- even
20 the little ones, that they could put jackets on.

21 Q So you swim off the end of the dock?

22 A Yes.

23 Q Do you get in the water pretty much every
24 day to get a little bit of exercise?

25 A Yeah.

1 Q How often do you get out on the boat to do
2 some boating?

3 A Well, my husband and I -- when the
4 children were there, we would take them. But my
5 husband and I have a tendency to go after
6 dinner.

7 Q Just for an afternoon ride?

8 A Yeah, watch the sun go down, notice how
9 beautiful it is.

10 Q When you go for your after-dinner ride, do
11 you go out past the Blue Springs Marina into the
12 Tennessee?

13 A Uh-huh, the main channel.

14 Q Into the main channel?

15 A Uh-huh.

16 Q Is that a few times a week or almost every
17 night?

18 A Other years it's been every night, but
19 this year, again --

20 Q Because of the heat?

21 A Because of the heat. It would be later
22 and shorter visits and --

23 Q Do either you or your husband fish?

24 A He did. He doesn't anymore.

25 MS. FRY: John, can we take just a

1 quick break, just a couple minute break?

2 MR. SHERK: Yeah.

3 (Off the record.)

4 BY MR. SHERK:

5 Q Does anybody use your property for
6 hunting?

7 A No.

8 Q Have they ever used your property for
9 hunting?

10 A No.

11 Q How about trapping?

12 A No.

13 Q Do you or your husband fish off the dock?

14 A Now, are you -- are you talking now or
15 before the ash spill? How are we defining it?
16 Just generally, or --

17 Q Yeah, just generally.

18 A We haven't in the last two years, have not
19 fished.

20 Q Okay. All right. Let's look at
21 Exhibit 7. Do you ever see any fly ash?

22 A I believe I did in that sample that he
23 gave. I believe I did at the marina, you know,
24 on boats, it would leave streaks. And that's
25 about it.

1 Q Okay. And the sample was obtained from
2 your husband in around -- not on your property
3 or around your property but in a cove?

4 A In the cove -- yeah, just around -- where
5 it was shallow. See, it's deep off there.

6 Q So your husband walked around to gather
7 some material?

8 A Uh-huh.

9 Q Other than that, is that the only fly ash
10 that you've seen?

11 A No. I've seen some in the beginning
12 covering. I assume it's -- I mean, I don't --
13 nobody has told me this is fly ash.

14 Q You didn't do a chemical test of the
15 material?

16 A Right. But I have seen it covered, you
17 know, the lake, the area.

18 My brother also had a sample that he
19 got in a different place.

20 Q Okay.

21 A But otherwise, I have not seen it. It's
22 down there.

23 Q So looking at Exhibit 7, there's no
24 location --

25 A No.

1 Q -- that you can specifically point to --
2 A Huh-uh.
3 Q -- with fly ash?
4 Do you know what your property line
5 is?
6 A Yes.
7 Q Is it the 750 contour?
8 A Yes.
9 Q Okay. If you were going to look at
10 Exhibit 7, is the property line somewhere up
11 around your house?
12 A This is kind of a difficult picture.
13 Q It is. And if you can't mark it, that's
14 fine.
15 A All right. This is the -- this is a
16 little deceiving, but I think I'd kind of go
17 like this. Is that all right?
18 Q Yeah. Sure.
19 A Okay. So I just put my initial?
20 Q Sure.
21 A Okay.
22 Q Is it your understanding that your house
23 is pretty close to the 750 contour?
24 A It looks like it by this picture, but it
25 doesn't seem to me -- but everybody, you know,

1 has that 750. Everyone that lives there has it,
2 so --

3 Q What that means is there's a stretch of
4 property between the end of your property line
5 and the water that is owned by TVA?

6 A Right.

7 (Marked Exhibit 9.)

8 BY MR. SHERK:

9 Q Ms. Phillips, I'm handing you deposition
10 Exhibit No. 9, and I'll represent to you that
11 this is a document entitled "Warranty Deed."

12 Do you see that?

13 A Uh-huh.

14 Q Now, I've highlighted parts of this
15 document on your copy and the copy that I just
16 provided to your counsel just to move things
17 along.

18 Is this document dated December 12,
19 1988?

20 A Yes. Yes.

21 Q Do you see that at the top of the page?

22 A Yes.

23 Q And is this the warranty deed that
24 involves the purchase of the property by you and
25 your husband from your father?

1 A Well, may I look it over?

2 Q Oh, yeah. Absolutely, please. Take your
3 time.

4 A I assume it is. It's been a long time
5 since I've seen it personally, but it looks like
6 it.

7 Q Sure.

8 A It is the correct one.

9 Q And you and your husband bought your
10 property at 224 Blue Heron Way from your
11 father's estate; is that correct?

12 A Yes.

13 Q And was the purchase price \$65,000?

14 A For us, yes.

15 Q And that was your three-quarter amount
16 that you paid; correct?

17 A Yes, uh-huh.

18 Q All right. You and your husband are the
19 sole owners of the property?

20 A Yes.

21 (Marked Exhibit 10.)

22 BY MR. SHERK:

23 Q Ms. Phillips, you've been handed
24 Deposition Exhibit No. 10, and I'll represent to
25 you that this is a document entitled

1 "Modification of Deed of Trust and Extension of
2 Promissory Note."

3 Do you see that document?

4 A Yes.

5 Q Once again, I highlighted parts of the
6 document for you and your counsel just to draw
7 your attention to the few questions I have with
8 regard to this document.

9 Please take your time to review it.

10 A Okay. Okay. I don't know what this is,
11 really. I mean, this is why we hire an
12 attorney; right?

13 Q Right. This document is not familiar to
14 you?

15 A No. I mean, it probably was at one time,
16 but I don't understand. Was this for the loan
17 or something?

18 Q Let's take a look at the second page of
19 this two-page document. Right on the bottom of
20 that second page I've highlighted where it says
21 26th day of February 2008.

22 A Uh-huh.

23 Q That's the date that this document was
24 executed.

25 Now, was there a loan or a project

1 that you and your husband were doing at that
2 time that this would have pertained to?

3 A For the house you mean?

4 Q Yes.

5 A Yes.

6 Q What would that have been? A remodeling
7 project, possibly?

8 A Oh, okay. Okay. Is there an amount here
9 someplace?

10 Q In the --

11 A Oh, 30 -- okay.

12 Q In the middle of the first page of Exhibit
13 10, it looks as if the amount of the deed of
14 trust is going to be increased from 30,000 to
15 50,000.

16 MS. FRY: The question?

17 BY MR. SHERK:

18 Q Does that look accurate to you?

19 A Yeah. I'm assuming it was -- getting the
20 loan included the building on of the other.

21 Does that make sense to you?

22 Q So this modification would have pertained
23 to the improvements that --

24 A Yes.

25 Q -- you and your husband did on the house?

1 A Yes.

2 Q And according to this document, the new
3 maturity date of your loan is February 25, 2018;
4 is that correct?

5 A Okay.

6 Q I'm looking at the very top of the
7 document where it's highlighted.

8 Do you see that?

9 A Yes, I see that.

10 Q Is that your understanding?

11 A Yes.

12 Q Okay. That's it for that exhibit.

13 Now, has your property ever been
14 appraised?

15 A It was during my father's time, and the
16 only thing I can go through is how it is on the
17 tax forms, you know. I mean, nobody has been to
18 my house and appraised it.

19 Q I may have asked you this, but how much do
20 you think your property is worth today?

21 A Well, we think probably it's, you know,
22 above 400,000.

23 Q That's a ballpark that you and your
24 husband have come up with?

25 A Yeah.

1 Q Have you consulted with Realtors or
2 anyone?

3 A No.

4 Q Do you have homeowner's insurance on your
5 property?

6 A Yes.

7 Q Do you know the value of that insurance?

8 A I'm not clear about that.

9 Q Sure. How much -- do you know how much
10 your house is insured for?

11 A Oh, okay. About that price, I'm sure,
12 yes.

13 Q Is it a replacement cost policy? Do you
14 know?

15 A Yes, uh-huh.

16 Q So they would have to replace your house
17 if it were destroyed?

18 A Yes.

19 (Marked Exhibit 11.)

20 BY MR. SHERK:

21 Q Ms. Phillips, I've handed you Deposition
22 Exhibit No. 11, and I'll represent to you this
23 is a real estate appraisal card regarding your
24 property. Once again, as with the earlier
25 exhibits, I've highlighted certain areas for you

1 and your counsel.

2 Do you see Exhibit 11?

3 A Yes.

4 Q Is this a document you've ever seen
5 before?

6 A It doesn't look familiar to me at all.

7 Q Okay. Do you see on the top where it's
8 highlighted, it says Real Estate Appraisal Card?

9 A Yes.

10 Q And do you see just to the right of that
11 where it says Tax Year 2009, County of Roane?

12 A Yes.

13 Q Now, on the far right-hand side of that
14 document, just a little ways down, there's a
15 section that I've highlighted called appraised
16 values?

17 A Yes, uh-huh.

18 Q Improvements is listed as \$93,800;
19 correct?

20 A Yes.

21 Q Would that be -- that would be your house
22 on the property?

23 A With the addition, you mean?

24 Q Yes.

25 A Yes.

1 Q Under that it says, "Land, \$130,000."

2 Do you see that?

3 A Uh-huh.

4 Q And the total appraised value is \$223,800.

5 Did I say that accurately?

6 A Yes.

7 Q Did you and your husband ever talk about
8 the tax appraisal that this document represents?

9 A Yes. And we felt that it was low, and I
10 think all tax appraisals are low, aren't they?
11 Is that my belief? I think that's my belief.

12 Q So you felt your property may have been
13 worth a bit more than that?

14 A Yeah. What was the date of this?

15 Q 2009.

16 Let me hand you the next exhibit,
17 which is the 2010 appraisal.

18 (Marked Exhibit 12.)

19 BY MR. SHERK:

20 Q Ms. Phillips, you've been handed
21 Deposition Exhibit No. 12, and I'll represent to
22 you that this is a real estate appraisal card
23 for the tax year of 2010 on your property.

24 Do you have that document before
25 you?

1 A Yes. Now, this I've seen, you know, the
2 tax, when we've received the bill. So that part
3 I've seen.

4 Q Do you see on the top of this document it
5 says, "Tax Year 2010, County of Roane"?

6 A Uh-huh.

7 Q "Yes"?

8 A Yes.

9 Q Under "Appraised Value," improvements are
10 listed as being \$120,800; correct?

11 A Yes.

12 Q And the land is appraised to be \$195,000;
13 correct?

14 A Yes.

15 Q And the total appraised value of your
16 house and land is \$315,800; is that accurate?

17 A Yes.

18 Q That's what this document says.

19 You testified, I believe, that you
20 have seen this document before?

21 A Yes, on the tax statement, uh-huh.

22 Q Have you and your husband had a chance to
23 discuss the tax appraised value of your
24 property?

25 A Oh, have we? Yes, uh-huh.

1 Q And did you conclude that this appraised
2 value is in the -- in the right ballpark, or do
3 you believe it ought to be higher?

4 A I think ours has been low, and if I can
5 explain. This year people's tax rates went --
6 the amount they paid have gone way up, and their
7 house has changed. Well, ours has been low
8 because it was an older house, and I don't think
9 they realized all the improvements that we made,
10 so we did not complain. We felt this was
11 accurate and that they had a right to raise it
12 over what it was in the beginning.

13 Q So no problems with this appraised value?

14 A No. In fact, we talked about it last
15 night again, and I said -- that's what we both
16 said. Well, I asked him, I said, Why are we
17 satisfied? He said, Because we always felt it
18 was low, you know, because of the house being
19 old in the beginning.

20 Q You mentioned earlier this morning that
21 you have thought a little about possibly selling
22 your house?

23 A Well, it depends because of our age. I
24 mean, we're comfortable, we don't have a lot of
25 money. If one or both of us should end up in a

1 nursing home, it may have to be sold, you know,
2 the cost of that. Our desire is to have the
3 boys own it, you know, when we're gone. But
4 that's why we've discussed it.

5 Q But you've never had a real estate agent
6 in to value the house?

7 A No, not lately, no.

8 Q Do you have any present intention of
9 moving?

10 A No.

11 Q And I believe you testified earlier that
12 you and your husband would estimate that if you
13 were to put your house up for sale, it would be
14 around \$400,000, something like that?

15 A I think, you know, because of what we're
16 doing, even with the bathrooms now.

17 Q With a roof, new bathrooms?

18 A Yeah.

19 Q The lot, the dock, the whole thing;
20 correct?

21 A Yeah, uh-huh.

22 Q We have talked from time to time about the
23 ash slide at the Kingston facility,
24 Ms. Phillips, and I believe you testified that
25 you kept abreast of developments by looking at

1 the newspapers and television; is that correct?

2 A Yes.

3 Q Do you consider yourself to be generally a
4 well-informed individual?

5 A Moderately well-informed.

6 Q What are the sources of information that
7 you look to to stay informed about current
8 events?

9 A Oh, the news and the newspaper.

10 Q The news on the television?

11 A Yes, but most -- I depend more on the
12 newspaper.

13 Q Do you listen to the radio news?

14 A Yes.

15 Q NPR, for example?

16 A I'm sorry?

17 Q National Public Radio?

18 A Sure.

19 Q Do you keep abreast of events by looking
20 at Internet sites?

21 A Yes.

22 Q What sites do you visit?

23 A Okay. Well, because I'm on AOL, it comes
24 up, and if it's something I'm interested in,
25 then I call it up. But otherwise, I don't have

1 any other. And you know, sometimes -- well, you
2 know, the news is very upsetting, so I take a
3 break from the television and I get annoyed, and
4 say that's it, I'm out. What will happen will
5 happen.

6 Q Wars and floods and those types of things?

7 A Uh-huh.

8 Q In your keeping advised about events of
9 the day, are you aware that there have been
10 public health assessments that have been
11 conducted following the ash slide at the
12 Kingston facility?

13 A Yes. But it's been short -- it's been
14 immediate, not long time. Yes, I have.

15 Q So you're aware that the Tennessee
16 Department of Health, along with the ATSDR did a
17 public health assessment?

18 A Yes.

19 Q What were the conclusions drawn from that
20 public health assessment?

21 A I think that there were none -- there was
22 no danger, no health problems because of it.

23 Q Did that strike you as some good news?

24 A No, it struck me as being false. I mean,
25 because you have to consider the long-term

1 effects.

2 Q Now, do you believe that the Tennessee
3 Department of Health would provide misleading
4 information to the public?

5 A Yes, or not give it all. I mean, why
6 wouldn't they have in there about long term?

7 Q Well, I can't really, you know, answer
8 that question, but I can ask.

9 Do you then doubt the conclusions
10 that were arrived at from the public health
11 assessment that was done by the Tennessee
12 Department of Health and the ATSDR?

13 A Yes.

14 Q Do you think there's a conspiracy to
15 mislead or withhold information from the
16 citizens of Tennessee with regard to the ash
17 slide?

18 A Yes.

19 Q Who would be the players in that
20 conspiracy?

21 A Government, TVA.

22 Q Are you aware that the -- the ORAU, the
23 Oak Ridge Associated Universities, conducted a
24 screening test on residents in the Kingston area
25 following the ash slide?

1 A Yes.

2 Q Are you aware of the conclusions of that
3 screening study?

4 A Yes.

5 Q Do you know what conclusions were drawn
6 from that study?

7 A Well, it's the same as you've referred to
8 before, but in one of the things they talk about
9 the long-term effect, that they're not aware of
10 what will happen long term. And that they left
11 out, that part in the paper.

12 Q Were you ever asked to be a part of the
13 ORAU screening study?

14 A No.

15 Q Were you interested in being a part of the
16 ORAU screening study?

17 A No.

18 Q Is it your understanding that the ORAU
19 screening study found no health problems with
20 the individuals that were a part of that study?

21 A Yes.

22 Q I believe earlier this morning,
23 Ms. Phillips, you testified that you've driven
24 by the Kingston facility from time to time since
25 the spill?

1 A Yes.

2 Q Mainly to visit your son Adam; correct?

3 A Yes.

4 Q Have you ever contacted TVA with thoughts
5 or concerns regarding the ash slide?

6 A No.

7 Q Whether by phone or letter or anything
8 like that?

9 A No.

10 Q Have you ever contacted the Tennessee
11 Department of Health with regard to concerns or
12 questions about the ash slide?

13 A No.

14 Q Have you ever contacted the EPA with
15 concerns or thoughts about the ash slide?

16 A No.

17 Q Have you ever contacted any public health
18 organization whatsoever with thoughts or
19 concerns about the ash slide?

20 A No. But are you aware in the Knoxville
21 paper this morning they're having a meeting at
22 Roane State? If we weren't here, we could all
23 be there. I don't know if you read that in the
24 paper. It was in this morning's paper. And
25 that would interest me. Can we go?

1 Q Have you been aware of the Citizens
2 Advisory Committee that was formed after the ash
3 slide?

4 A I'm sorry?

5 Q Are you aware of the Citizens Advisory
6 Committee that was formed after the ash slide?

7 A Oh, around the Swan Pond area? Yes.

8 Q Do you know any members of the Citizens
9 Advisory Committee?

10 A No, I don't, but my -- you know,
11 daughter-in-law was very active.

12 Q She's a member of that?

13 A I'm not sure. But she would attend the
14 meetings and talk to them.

15 Q Did you ever attend any of those meetings?

16 A No.

17 Q Have you ever attended any meetings
18 besides those with the counsel you interviewed
19 early on about the ash spill?

20 A No.

21 Q Okay. You did not attend any
22 presentations by Erin Brockovich, I believe you
23 said?

24 A No, I did not.

25 Q Okay. You mentioned a few times you're

1 using e-mail as a form of communication;
2 correct?

3 A Yes.

4 Q Did you receive some instructions from
5 your counsel about preserving materials that
6 pertain to this lawsuit?

7 A No.

8 Q When did you retain your counsel?

9 A I don't remember the date.

10 Q Would it have been within the first three
11 months after the spill?

12 A I would say later. I don't know.

13 Q Okay. Maybe in the summer of 2009?

14 A That's -- I still don't know, but that
15 sounds closer, uh-huh.

16 Q Have you been saving any documents or
17 e-mails that you may have come across that
18 relate to the ash slide or this lawsuit?

19 A No. But if I had known I was going to be
20 a representative, I wish I had. No.

21 Q Is it your understanding now that you need
22 to be saving materials that pertain to the
23 lawsuit?

24 A Yes.

25 Q Do you have any materials at home that are

1 relevant to this lawsuit that you could provide
2 to your counsel?

3 A Yes. That article in this morning's
4 papers.

5 Q Anything other than that, Ms. Phillips?

6 A Where they say "dangerous."

7 Q Anything other than that, Ms. Phillips?

8 A No.

9 Q You don't. Okay.

10 And I understand that you have not
11 provided your counsel with the air filters from
12 your air conditioning system?

13 A No.

14 Q Or any wipes where you wiped material that
15 could have been ash?

16 A No.

17 Q Or any samples from the water or earth;
18 right?

19 A No.

20 Q No one has done any sampling of the water
21 around your residence or the soil of your
22 property, correct?

23 A No.

24 Q If I could just have a couple minutes to
25 review my notes, I'll see what additional

1 questions I've got.

2 (Recess.)

3 BY MR. SHERK:

4 Q Ms. Phillips. We're back on the record
5 after the lunch break. I've had a chance to
6 take a look through my notes, and I don't have
7 many more questions for you.

8 A Okay.

9 Q Let me follow up on the ORAU screening
10 program that we discussed earlier.

11 Was this something that your son
12 Adam and his family participated in?

13 A Yes.

14 Q They did?

15 A Oh, no, I'm sorry. I do not know. They
16 participated, I don't know if it's in the ORAU.

17 Q Okay. So they did have some form of
18 screening?

19 A I believe so, uh-huh.

20 Q Do you know what types of tests were
21 administered to them?

22 A No, I don't.

23 Q Was this something that they paid for
24 themselves, or was it government sponsored?

25 A I think they paid for it.

1 Q Do you know for sure, though?

2 A No, I do not know.

3 Q Are you aware of the Watts Bar nuclear

4 facility?

5 A Yes.

6 Q How close is that facility to your place

7 of residence?

8 A Okay. By road or by --

9 Q Uh-huh.

10 A I'm saying between 10 and 15 miles.

11 Q Miles by road?

12 A Uh-huh.

13 Q How about by boat?

14 A Well, I don't know how -- I never pay

15 attention, but it takes, to go there, probably

16 almost an hour.

17 Q Does the presence of that nuclear facility

18 cause you concern?

19 A Not actively. I have thought about --

20 there is a sign, you know, in case of nuclear

21 activity, you know, which way to go. And then I

22 think, you know, I am living -- but I haven't --

23 I don't spend much time thinking about it.

24 Q Thinking back over all the places where

25 you've lived during the course of your life,

1 Ms. Phillips, have you ever lived by a
2 manufacturing plant of any sort?

3 A No.

4 Q Have you ever lived by a chemical plant?

5 A No.

6 Q How about a plant that manufactures tires
7 or rubber?

8 A No.

9 Q Have you ever lived by a shipyard?

10 A No.

11 Q Have you ever lived on a landfill?

12 A No.

13 Q Have you ever lived by a waste treatment
14 facility?

15 A No.

16 Q Have you ever lived in an industrial area?

17 A We lived in England for a while, and it
18 was an industrial area, but no, not in the
19 U.S.A.

20 Q Have you ever lived in a farming area?

21 A Yes.

22 Q When was that?

23 A Well, I've lived -- farming area growing
24 up.

25 Q Yes.

1 A And we lived 30 some -- before we moved to
2 Tennessee.

3 Q So the area that you lived in in New York?

4 A Was a farming area.

5 Q Did you have a farm?

6 A A small farm, uh-huh.

7 Q Did you use pesticides, herbicides, and
8 fertilizers on that farm?

9 A Fertilizers.

10 Q What kinds of things did you grow?

11 A Well, we just had -- we had a pretty good
12 garden in those days, and I would freeze -- you
13 know, would help with the family finances. And
14 we had sheep and a cow at the time and one
15 horse -- oh, and chickens.

16 Q How many acres did you have?

17 A I think it was 38.

18 Q 38 acres?

19 A Uh-huh.

20 Q Okay. How long did you live in England?

21 A In New York?

22 Q In England.

23 A Oh, in England. Two and a half years.

24 Q What part of England?

25 A North of London. About 40 miles north of

1 London.

2 Q Why was it that you spent two and a half
3 years in England?

4 A My husband was in the service.

5 Q What base was he posted on?

6 A Keesler Air Force Base.

7 MS. FRY: Ms. Phillips, can I get you
8 some water?

9 (Off the record.)

10 BY MR. SHERK:

11 Q What branch of the service was your
12 husband in?

13 A Air Force.

14 Q Let's take a look at Exhibit 2. If you
15 would turn to page 17 of Exhibit 2,
16 Ms. Phillips.

17 In interrogatory 13, it asks a
18 number of questions, one of which is when an
19 attorney-client relationship was established.

20 Take your time to review that
21 question.

22 A 13?

23 Q 13.

24 A Okay. Not counting the attorney-client
25 relationship now, I just had that one other

1 meeting with the people whom I can't remember
2 their name.

3 Q The local people from Oak Ridge; right?

4 A Yes. Oak Ridge, uh-huh.

5 Q Let me ask you this question. It says
6 here,

7 "Barbara Phillips
8 established attorney-client
9 relationship on May 26, 2009."

10 Do you see that?

11 A Uh-huh.

12 Q Does that spark a memory for you about
13 when you retained your counsel in this case?

14 A I guess it would be then.

15 Q Do you have any independent remembrance of
16 that?

17 A No. I think I told you before it was in
18 the spring, didn't I?

19 Q Yes.

20 A Yeah, uh-huh.

21 Q So that sounds like it's in the right
22 range, anyway?

23 A Right.

24 MR. SHERK: Brantley, let me just
25 make a statement on the record that to the

1 extent Ms. Phillips has got documents that might
2 be responsive to our document requests or
3 photographs or videos which might be responsive,
4 we'd like to request that those be made
5 available.

6 MS. FRY: Okay. We'll get those to
7 you.

8 BY MR. SHERK:

9 Q In terms of your property at 224 Blue
10 Heron Way, as I understand it, you bought the
11 property in 1998; correct?

12 A Yes.

13 Q And you moved in in 1995?

14 A Yes.

15 Q How was the property used between 1988 and
16 1995?

17 A We would just go out maybe in the summer
18 and stay or on holidays or some of my family
19 would stay there.

20 Q It was a vacation home?

21 A Uh-huh.

22 Q But in 1995 after Adam graduated from high
23 school, you moved there as your primary
24 residence?

25 A Right.

1 Q We talked a little bit about a potential
2 conspiracy regarding the health effects of fly
3 ash earlier this morning.

4 Do you remember that?

5 A Yes. And I need to respond to that.

6 Q Okay.

7 A Did you have you have a question?

8 Q Yes. Why do you think that there was a
9 conspiracy?

10 A I'm not a conspiracy theory. I think
11 individually this is what happened. I don't in
12 any way think there would be a conspiracy.
13 Maybe between TVA and the two other --

14 Q Defendants in this case?

15 A -- defendants, uh-huh.

16 Q So you -- this is a theory that you have?

17 A Yes.

18 Q Okay.

19 A If we have the same definition of
20 "conspiracy." I think we do.

21 Q So would the conspiracy that you're
22 contemplating involve the Tennessee Department
23 of Health or the EPA or any other agency?

24 A No, I'm not calling that a conspiracy.

25 Q Okay. Those are all the questions that

1 I've got. I think some of my colleagues may
2 have a few follow-up questions for you.

3 A Okay. May I say something about -- with
4 my tax -- you know, you asked me with the tax
5 amount and 350. That brings me to think -- to
6 say that because the community, as a whole, are
7 worried about their property values, and there
8 have been signs for sale that have stayed there
9 a lot longer -- before property -- people --
10 because they're not -- especially in our area,
11 there is not any property left, houses would
12 sell very rapidly. And now some of them have
13 been for sale for over a year, and they're not
14 selling.

15 And I just thought my community
16 friends would want me to relate that to you.
17 That's a concern.

18 Q Okay. I'm going to move to strike that
19 answer as nonresponsive or that statement.

20 But --

21 A What does that mean?

22 Q It's just a legal thing.

23 MS. FRY: She was clarifying an
24 earlier answer.

25 MR. SHERK: Right. I'm not sure to

1 what question that would have been responsive
2 to.

3 THE WITNESS: Oh, about the money, I
4 think, and selling.

5 BY MR. SHERK:

6 Q Right. We were talking about your
7 property; correct?

8 A Right. But I wanted the chance -- you
9 haven't asked, I guess, about how the community
10 feels about their property. Okay. All right.

11 MS. FRY: Oh, okay.

12 MR. SHERK: Okay.

13 Ashley? We're going to switch places
14 so it's easier for her.

15 E X A M I N A T I O N

16 BY MS. LOWE:

17 Q All right. Are you ready, Ms. Phillips?

18 A Yes, uh-huh.

19 Q Good afternoon. My name is Ashley Lowe,
20 and I represent GeoSyntec Consultants, and I've
21 got a few questions for you this afternoon. And
22 I'm going to bounce around a little bit so I
23 don't go over anything that Mr. Sherk has
24 already asked you.

25 A Okay.

1 Q So if I ask a confusing question or you
2 don't know what I'm talking about, please let me
3 know.

4 Okay?

5 A Okay.

6 Q Do you know who GeoSyntec Consultants is?

7 A No.

8 Q Do you know anything about what GeoSyntec
9 Consultants does?

10 A No.

11 Q To your knowledge, have you ever talked
12 with anyone who works for GeoSyntec Consultants?

13 A No.

14 Q Do you have an understanding as to why you
15 have sued GeoSyntec Consultants in this case?

16 A Yes.

17 Q Okay. What is that understanding?

18 A The fact that they -- after -- before the
19 ash spill, that they were called in, I
20 believe -- my understanding -- and they just
21 reported that everything was fine.

22 Q Okay. Where did you obtain that
23 understanding?

24 A This was in -- one of these
25 communications, isn't it?

1 MS. FRY: You can't answer.

2 THE WITNESS: I can't answer? All
3 right.

4 BY MS. LOWE:

5 Q To the best of your knowledge, where did
6 you obtain that understanding?

7 A I read it, and it was yesterday.

8 Q You read it in a document yesterday?

9 A Yes, uh-huh, uh-huh.

10 Q Take a look at Exhibit 1 that you have
11 there in front of you. Is that potentially
12 where you read the information regarding
13 GeoSyntec Consultants?

14 A (No audible response.)

15 Q Other than something that you read
16 yesterday, do you have any other knowledge about
17 how GeoSyntec Consultants may be involved in
18 this case?

19 A No, I did not.

20 DEPOSITION OFFICER: Ashley, I'm
21 sorry, I didn't -- did I get an answer on that
22 last question?

23 MS. FRY: There was a head nod, yes.

24 (Off the record.)

25 (Record read.)

1 THE WITNESS: Yes.

2 BY MS. LOWE:

3 Q And for the record, so it's clear,
4 Exhibit 1 there that you're looking at is the
5 consolidated class action complaint; is that
6 correct?

7 A Yes.

8 Q You indicated earlier that you have
9 homeowner's insurance on your property?

10 A Yes.

11 Q Is that correct?

12 Have you made any claims for damage
13 to the property or theft, any claims at all, on
14 your homeowner's insurance policy since you have
15 lived there since 1995?

16 A No.

17 Q Do you know anyone that currently works at
18 the Kingston facility?

19 A No.

20 Q Do you know anyone who has worked at the
21 Kingston facility in the past?

22 A No.

23 Q You mentioned earlier a meeting that's
24 being held tonight at Roane State that you might
25 like to attend related to the spill; is that

1 correct?

2 A Yes, uh-huh.

3 Q Have you attended any other meetings held
4 by -- whether it be TVA or any other groups
5 related to the spill?

6 A No, I have not.

7 Q Are you involved in any clubs or
8 organizations that frequently meet or have
9 activities in the Kingston area?

10 A No.

11 Q What family members regularly come to your
12 house?

13 A My son that lives in the -- on Quarry Road
14 in Harriman. My other son will come maybe twice
15 a year, a granddaughter comes occasionally. But
16 they live out -- we have -- well, I forgot about
17 my brother and sisters, they come often. You
18 know, they'll come just for dinner, just for a
19 visit. And my one sister in Tallahassee will
20 come for holidays or to spend some time.

21 Q Since the spill, has anyone spent, you
22 know, multiple days where they would spend the
23 night at your house?

24 A I'm sorry, any --

25 Q Has anyone spent multiple days with you

1 where they would spend the night at your house?

2 A Uh-huh.

3 Q Who's that?

4 A My youngest sister.

5 Q What's her name?

6 A Nancy Richards.

7 Q When has Nancy stayed with you?

8 A She was just here last month or so and

9 stayed with a friend because of the Oak Ridge

10 reunion -- high school reunion.

11 Q So she brought a friend with her?

12 A Uh-huh.

13 Q How long did she stay?

14 A Just two nights.

15 Q Do you recall the name of the friend that

16 stayed at your house with her?

17 A No.

18 Q Any other time that Ms. Richards had

19 stayed with you overnight following the spill?

20 A No, not with me. She -- she's stayed with

21 my sister in her cabin, that's since the spill,

22 but not with me.

23 Q Where is your sister's cabin located?

24 A It's on Treasure Tree.

25 Q And how far from you is that?

1 A By road, it's probably four miles. But
2 it's just a quick trip on the boat.

3 Q So that property's also on the water?

4 A Uh-huh.

5 Q And what is that sister's name?

6 A Connie Adams.

7 Q Connie, okay.

8 Just want to make sure I have it
9 clear.

10 Anyone other than -- well, let me ask
11 this. How often has Ms. Richards stayed with
12 Connie following the spill?

13 A Well, probably twice last year and this
14 year.

15 Q Did you say last year and this year?

16 A Uh-huh.

17 Q How long did she stay each time?

18 A Usually a week.

19 Q Do you know when that week was this year?

20 A June.

21 Q What about last year, when was that week?

22 A I'm not sure.

23 Q Do you know what time of year it was?

24 A In the summer, uh-huh.

25 Q Anyone other than Ms. Richards who has

1 stayed with you overnight since the spill?

2 A My son from New York stayed.

3 Q When has he been here?

4 A Christmas, Easter this year; last year in
5 July.

6 Q Anyone else that has stayed with you
7 overnight following the spill?

8 A I don't think so. Well, of course,
9 they're involved -- my grandchildren have
10 stayed, spent the whole summer with me.

11 Q Which grandchildren spent the summer with
12 you?

13 A Adam's, the ones that live here on Quarry
14 Road.

15 Q Did all four of them stay with you?

16 A All four have always stayed once, but the
17 two girls spent the entire summer with me.

18 Q So did they pretty much stay with you most
19 nights this summer?

20 A Uh-huh.

21 Q If I recall correctly, one of those girls
22 is Adam's blood daughter?

23 A Right.

24 Q And then one is his sister-in-law's
25 daughter?

1 A Uh-huh, yes.

2 Q When did -- well, let me ask this. Do

3 Adam and his wife have custody?

4 A Legal custody, uh-huh, of the three

5 children.

6 Q Is it his wife's sister's children?

7 A Yes.

8 Q When did Adam and his wife get legal

9 custody of those three children?

10 A Right before Christmas of last year.

11 Q Christmas of 2009?

12 A Uh-huh, yes.

13 Q How long have those children lived with

14 Adam and his wife?

15 A Steadily since Christmas 2009.

16 Q Did they live with him at all prior to him

17 obtaining legal custody of them?

18 A No.

19 Q Where did they live prior to him obtaining

20 legal custody of them?

21 A I think someplace in Harriman, but I'm not

22 sure where. Not -- you know, not in this area

23 or anything. I mean the city of Harriman.

24 Q Not in the area of the spill; is that what

25 you were meaning by pointing at the map?

1 A No, no. They did not live there at that
2 time.

3 Q At the time of the spill, was it Adam, his
4 wife, and his actual daughter living in their
5 residence?

6 A Yes, uh-huh.

7 Q Okay. Inside the two to three months
8 following the spill, was there anyone at your
9 house on a regular basis?

10 A Anyone other than my husband and I?

11 Q I'm sorry, anyone other than you and your
12 husband at your house on a regular basis?

13 A No. I'm sorry, except for the summer. I
14 guess --

15 Q I'm saying in the two or three months
16 following the spill.

17 A Oh, no.

18 Q Say, January of '09 to March of '09.

19 A No.

20 Q Do you have any type of -- you or your
21 husband, either one, have any type of group, a
22 book club or a bible study that meets at your
23 house on a regular basis?

24 A No.

25 Q Did anyone observe what you described

1 earlier what you thought to be fly ash on your
2 vehicles other than yourself?

3 A No.

4 Q Other than yourself and your husband, did
5 anyone observe the sample that he took out of
6 the cove you described earlier?

7 A Yeah. He showed it, you know, to our
8 friends at the marina and my brother and, I
9 think, Dr. Greer.

10 Q Who -- what friends at the marina did he
11 show it to?

12 A Larry Steidle, the owner.

13 Q Anyone else?

14 A Not to my knowledge.

15 Q Did your husband dispose of the sample he
16 had taken before you created the attorney-client
17 relationship with the attorneys that are
18 representing you now?

19 A Oh, yes, uh-huh.

20 Q How long before you created that
21 attorney-client relationship did he throw away
22 that sample, to the best of your recollection?

23 A It had to be between the spill and May. I
24 would say early spring, March or April. But
25 that's just a guess. I'm not really sure.

1 Q Other than your actual residence, do you
2 have any outbuildings on your property?

3 A No.

4 Q No sheds or garages or boathouses?

5 A Oh, you know, we do have a shed, yeah.

6 Q Okay. What kind of shed do you have?

7 A It's just a small shed where we keep,
8 like, the Christmas supplies and tubes and water
9 equipment and lawn mowers and things like that.

10 Q How long has that shed been there?

11 A We built it, probably, in '97, two years
12 after we moved in.

13 Q How large is that shed?

14 A Okay. I'd say about that corner, you
15 know, you could go from there to there,
16 something like that. But I can't tell you feet.

17 Q Relatively small?

18 A Yes.

19 Q Does your husband have a real estate
20 license?

21 A No. He's given it up. He did have one.

22 Q He did have a real estate license?

23 A Yes.

24 Q Who did he work -- did he have his own
25 realty company in Oak Ridge?

1 A Yes.

2 Q Were there other Realtors that he worked
3 with in Oak Ridge?

4 A One other one.

5 Q Who was it that he worked with in Oak
6 Ridge?

7 A Sharon or -- I can't remember her name.
8 First name was Sharon.

9 Q Sharon?

10 A Uh-huh.

11 Q Did they have a name to their realty
12 company?

13 A Yes. It was called the Townsite Realty.
14 It was in the old Oak Ridge, Jackson Square.

15 Q Townsite Realty?

16 A Uh-huh.

17 Q Located in Jackson Square?

18 A Uh-huh.

19 Q When did your husband give up his real
20 estate license?

21 A When -- I think probably two years after
22 we moved out, maybe '96. In '96 he stopped
23 working.

24 Q Has he continued to do any work in the
25 real estate business --

1 A No.

2 Q -- since giving up his license?

3 A No.

4 Q Do you know if he's done any investigation
5 into the value of your property before or after
6 the spill?

7 A Well, not investigation, huh-unh. I can't
8 say investigation.

9 Q Okay. If not investigation, has he talked
10 with anyone about it or analyzed what he thinks
11 the value of the property is?

12 A Yeah, uh-huh.

13 Q What has he done to analyze the value of
14 your property?

15 A I think he's just, you know, aware of the
16 community, thinking about people selling their
17 houses and the prices. He just feels like the
18 rest of them that -- we've been told so many
19 times, oh, I wouldn't want to live there, and
20 that kind of thing, but nothing official.

21 Q Are you aware of anyone specifically that
22 your husband has talked with about the value of
23 your property, whether before or after the
24 spill?

25 A Oh, the neighbors, yeah. The Steidles at

1 the Blue Springs Marina, Dr. Greer, my sister.

2 Q Which sister?

3 A Connie.

4 Q Connie?

5 A Uh-huh.

6 Q Are you aware of any Realtors or real
7 estate professionals that your husband has
8 spoken with about property value?

9 A No.

10 Q You mentioned a few moments ago that you
11 were aware that Adam had -- had some screening
12 done.

13 A Yes.

14 Q Is that correct?

15 A Uh-huh.

16 Q Okay. Are you aware of any of the results
17 of any of the screenings that Adam or his family
18 had done?

19 A Okay. Except for Autumn, they were fine.
20 It was just at that time Adam and Charlotte, his
21 wife.

22 Q Do you know who did the screenings?

23 A No.

24 Q And I believe what you were saying just a
25 moment ago -- and correct me if I'm wrong --

1 that Adam, his wife, and their daughter were all
2 three screened?

3 A Yes.

4 Q Are you aware of anyone else that has had
5 any screening or medical testing done?

6 A No.

7 Q Are you aware of anyone else who was
8 requested or invited to participate in a
9 screening study of any sort?

10 A No.

11 Q You were talking to Mr. Sherk a few
12 moments ago about conspiracies. How do you
13 define -- what is a conspiracy to you?

14 A Well, it's just -- it's several members of
15 any community got together and decided, you
16 know, this something was wrong and they were
17 going to, you know, attack or make people -- I
18 think of -- the reason I even brought it up, I
19 think of conspiracy now what the green people or
20 something, and the people get so upset nowadays
21 over conspiracies, the hatred.

22 And I have nothing to do with that.
23 I mean, I would not -- I don't even want to be
24 labeled that way.

25 Q I believe you mentioned that you didn't

1 think there was a conspiracy with the Department
2 of Health but maybe there was a conspiracy
3 between TVA and the other defendants.

4 What made you think -- what made you
5 say that there might be a conspiracy between TVA
6 and the other defendants in this case?

7 A Oh, okay. I could think maybe if TVA paid
8 them to make sure the report was good. But you
9 know, it's just my own feeling.

10 Q Do you have any facts to support that
11 statement?

12 A I don't personally, but I'm sure probably
13 the attorneys do.

14 Q Are you specifically aware of anyone who
15 has any facts to support that there would be a
16 conspiracy between TVA and the other defendants
17 in this case?

18 A No.

19 Q Do you have any photographs or videos of
20 what you described as the fly ash on your
21 vehicles that you observed?

22 A No, I don't.

23 Q Do you have any photographs or videos of
24 the sample that your husband took that you
25 discussed earlier today?

1 A No.

2 Q The cabin property that you owned prior to
3 purchasing this current property where you
4 reside, where was that cabin located?

5 A That was on Treasure Tree near my sister
6 Connie.

7 Q How long has Connie lived on Treasure
8 Tree?

9 A Probably '70s. Early '70s.

10 Q Was that property that you owned also
11 waterfront property?

12 A Yes.

13 Q Who did you sell that property to?

14 A I'm sorry, the name won't -- the name
15 escapes me.

16 Q Was it someone you knew or just a random
17 person who just purchased the property?

18 A Yeah, just someone.

19 Q Do you know who owns that property now?

20 A Their name, also, I don't -- they sold --
21 the one we sold it to, he resold it after a
22 couple of years to the family that lives there
23 now. And I don't remember their names, either.

24 Q All right. Ms. Phillips, I appreciate
25 your time. I think those are all the questions

1 I have for you this afternoon. Thank you.

2 E X A M I N A T I O N

3 BY MR. HOWELL:

4 Q Ms. Phillips, my name is Dean Howell, and
5 I thank you for your patience today. I know
6 you've been asked a lot of questions. I don't
7 have too many, but I do have a few that I want
8 to ask you. I represent WorleyParsons.

9 And have you heard of WorleyParsons
10 before?

11 A Before talking to my attorneys or --

12 Q Yes.

13 A No.

14 Q What have you heard about WorleyParsons?

15 A That they did an independent study of the
16 accident and the ash spill.

17 Q Do you know what WorleyParsons does?

18 A No.

19 Q Have you ever talked with anyone at
20 WorleyParsons?

21 A No.

22 Q Have you ever corresponded with anyone at
23 WorleyParsons via letter or e-mail or fax?

24 A No.

25 Q Do you know -- do you have any personal

1 knowledge about how WorleyParsons is compensated
2 for work it does for clients?

3 A No.

4 Q Okay. So the answer is "no"?

5 A Yeah. I don't know.

6 Q Do you know why you have sued
7 WorleyParsons in this case?

8 A Why we are suing in this case?

9 Q Yeah. Why are you suing WorleyParsons?

10 A Because I feel they gave a false report.

11 Q And why do you feel that way?

12 A Because the report said it was okay.

13 Q Do you have any personal knowledge about
14 this report that WorleyParsons did?

15 A No.

16 Q When did you first know that you were
17 suing WorleyParsons?

18 A Yesterday.

19 Q And yesterday was September 1, 2010?

20 A Yes.

21 Q And how did you learn that you were suing
22 WorleyParsons?

23 A Through this Exhibit 1.

24 Q You read it in the consolidated class
25 action complaint?

1 A Yes, uh-huh. And if you ask why --

2 Q Pardon?

3 A Never mind. Strike that.

4 Q You're becoming a pro at this. Maybe you
5 should give depositions for a living.

6 All right. So is your only knowledge
7 about WorleyParsons, as it relates to this case,
8 is the only source of that knowledge from what's
9 in that Complaint?

10 A Yes.

11 Q And you read that Complaint for the first
12 time yesterday?

13 A Yes.

14 Q Have you ever made any complaints of any
15 kind about the Watts Bar nuclear facility?

16 A No.

17 Q Could you describe for me your cove where
18 you live? Could you describe the cove and what
19 it's like?

20 A It's -- we live at the end of a cove, so
21 I'm looking out at Blue Springs and sailboats,
22 and it's a lovely sight. And at the opening of
23 the cove, I have neighbors around us and we have
24 lots of trees and they're all on the waterfront.

25 Q Would you agree that it's a unique place?

1 A I think it is. I think it's the nicest
2 place in Halfmoon Shores, I mean, as far as
3 situation. I mean, there are lots of lovelier
4 houses, but --

5 Q You wouldn't want to live anywhere else,
6 would you?

7 A Huh-unh.

8 Q Is that a "no"?

9 A "No." That's a "no."

10 Q All right. And I apologize for bouncing
11 around, but I don't want to go over anything
12 we've already covered.

13 There was some testimony I believe
14 you gave at the -- sort of toward the beginning
15 of your deposition, and I think you made a
16 reference to your brother as a mercenary.

17 Do you remember that?

18 A (No audible response.)

19 Q Is it -- can you explain what you mean by
20 that?

21 MS. FRY: You need to answer with --
22 verbally.

23 BY MR. HOWELL:

24 Q Oh, yes. Do you remember that testimony,
25 the comment about your brother being a

1 mercenary?

2 A Yeah, but I don't remember what context it
3 was.

4 Q Okay. You don't --

5 A He's -- money is very important to him,
6 you know, that's -- add to it. Yesterday when I
7 told him, he said, "Now, are they paying you for
8 your time?"

9 I said, "No."

10 "Are they going to pay you
11 tomorrow?"

12 "No."

13 Is that good?

14 Q No, that's fine. If that's your answer,
15 that's fine. Okay.

16 You also made a comment that I wanted
17 to ask you about or testified. I believe you
18 were talking about -- you made the statement
19 that the other defendants had written off on it.

20 Do you remember making that statement
21 earlier?

22 A The other defendants?

23 Q Or you said the other companies had
24 written off on it with regard to the facility.
25 I'm just curious as to what you meant by that.

1 A I can't remember. What companies were we
2 talking about? You don't know either?

3 Q You said the other companies had written
4 off on it, I believe was your testimony, what I
5 have in my notes. And I'm just curious what you
6 meant by that.

7 A Me too. I don't remember.

8 Q So would you agree with me that when you
9 said other companies had written off on it, you
10 don't know what that relates to at all?

11 A No.

12 Q I apologize if this has been asked before.

13 But can you see Watts Bar Nuclear
14 Plant from your residence?

15 A No.

16 Q Can you see the -- I know from driving
17 around that, you know, sometimes you can see the
18 steam plume from the cooling towers.

19 Can you see that from your house?

20 A Not from our house.

21 Q Okay. When you get out into the main
22 channel, can you see it?

23 A Yes.

24 Q Okay. When you get out -- let me rephrase
25 that to make sure I'm accurate.

1 When you get out into the main
2 channel just as you enter -- or leave your cove,
3 you can see the steam plume?

4 A No, I have to go further toward Kingston
5 to.

6 Q Toward -- no, I'm talking about Watts Bar.

7 A Oh, no.

8 Q The nuclear plant.

9 A Yes. I don't have to go very far before I
10 see them.

11 Q Okay. Once you get out into the main
12 channel from your cove, can you also see the
13 structure of Watts Bar Nuclear Plant?

14 A When I go a little bit on the boat, yeah.

15 Q Towards the Watts Bar Dam?

16 A Towards the Watts Bar Dam.

17 Q I believe you also had testified that you
18 wanted to put in some new carpet in your house.
19 Is there anything else that you want to add to
20 or any further renovations or additions that you
21 want to do to your house?

22 A I hope not.

23 Q I think that's all I have. Thank you very
24 much for your patience.

25 (Deposition session concluded at 1:30 P.M.)

1 REPORTER'S CERTIFICATE

2 I certify that the witness in the
3 foregoing deposition, BARBARA PHILLIPS, was by
4 me duly sworn to testify in the within-entitled
5 cause; that the said deposition was taken at the
6 time and place therein named; that the testimony
7 of said witness was reported by me, a Shorthand
8 Reporter and Notary Public of the State of
9 Tennessee authorized to administer oaths and
10 affirmations, and said testimony, pages 1
11 through 160 was thereafter transcribed into
12 typewriting.

13 I further certify that I am not of
14 counsel or attorney for either or any of the
15 parties to said deposition, nor in any way
16 interested in the outcome of the cause named in
17 said deposition.

18 IN WITNESS WHEREOF, I have hereunto
19 set my hand the 16th day of September, 2010.



25 Katherine Gale, CSR, LCR #420
My commission expires: 2/27/2012

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E R R A T A

I, BARBARA M. PHILLIPS, having read the foregoing deposition, Pages 1 through 160, taken September 2, 2010, do hereby certify said testimony is a true and accurate transcript, with the following changes, if any:

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BARBARA M. PHILLIPS

Notary Public

My commission expires: _____

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In The Matter Of:
George Chesney, et al. v.
Tennessee Valley Authority, et al.

Donald W. Simon
August 18, 2010

Vowell & Jennings, Inc.
214 Second Avenue North
Suite 207
Nashville, Tennessee 37201
615-256-1935



Original File 081810A.TXT
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

GEORGE CHESNEY; VIRGIL)
MAINES; WILLIAM GADDIS;)
DEBRA BURNUM; PATRICIA)
CORDELL; JAMES G.)
WORLEY; JEWEL H.)
FRANCIS; DONALD W.)
SIMON; and BARBARA M.)
PHILLIPS,)

Plaintiffs,)

vs.)

CASE NO. 3:09-CV-09

TENNESSEE VALLEY)
AUTHORITY; GEOSYNTEC)
CONSULTANTS, INC.; and)
WORLEYPARSONS)
CORPORATION,)

Defendants.)

VIDEOTAPED DEPOSITION OF:

DONALD W. SIMON

Taken on Behalf of the Defendants

August 18, 2010

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1 The videotaped deposition of
2 DONALD SIMON, taken on behalf of the Defendants,
3 on the 18th day of August, 2010, at 9:23 A.M.,
4 in the Law Offices of Cooley, Cooley &
5 McFarland, 1021 Waterford Place, Kingston,
6 Tennessee, for all purposes under the Tennessee
7 Rules of Civil Procedure.

8 The formalities as to notice,
9 caption, certificate, et cetera, are waived.
10 All objections, except as to the form of the
11 questions, are reserved to the hearing.

12 It is agreed that Katherine Gale
13 being a Notary Public and Court Reporter for the
14 State of Tennessee, may swear the witness and
15 that the reading and signing of the completed
16 deposition by the witness are reserved.

17
18
19
20
21
22
23 DONALD SIMON
24 was called as a witness, and after having been
25 first duly sworn, testified as follows:

1 P R O C E E D I N G S

2 THE VIDEOGRAPHER: Here begins
3 volume 1, videotape No. 1 in the deposition of
4 Donald Simon in the matter of Chesney, et. al.,
5 vs. Tennessee Valley Authority in the United
6 States District Court, Eastern District of
7 Tennessee at Knoxville.

8 The case numbers are 3:09-cv-9,
9 3:09-cv-48, 3:09-cv-54, 3:09-cv-64, 3:09-cv-517.
10 Today's date is August 18, 2010. Time on the
11 video monitor is 7:23 A.M. Video operator today
12 is Rudy Smith. Video deposition is taking place
13 at 1021 Waterford Place, Kingston, Tennessee.

14 Counsel, please identify yourselves
15 and state whom you represent.

16 MR. BRANDES: Paul Brandes, Villari,
17 Brandes & Kline on behalf of the deponent,
18 Plaintiff Donald Simon.

19 MR. BYRNE: David Byrne with Beasley,
20 Allen on behalf of the Plaintiff Donald Simon.

21 MR. SHOCKLEY: Gary Shockley, Baker,
22 Donelson, Bearman, Caldwell & Berkowitz on
23 behalf of Defendant GeoSyntec Consultants, Inc.

24 MS. MORETZ: Denise Moretz of Woolf,
25 McClane, Bright, Allen & Carpenter on behalf of

1 WorleyParsons.

2 MR. MARQUAND: Brent Marquand,
3 General Counsel's Office, Tennessee Valley
4 Authority.

5 MR. ANSTOETTER: Mark Anstoetter,
6 Shook, Hardy & Bacon on behalf of Defendant
7 Tennessee Valley Authority.

8 MR. SHERK: And I'm John Sherk,
9 Shook, Hardy & Bacon on behalf of TVA.

10 THE VIDEOGRAPHER: For the record,
11 time on the video monitor is one hour prior to,
12 which would Central Standard time, should be
13 Eastern time for correction.

14 Court reporter, would you please
15 swear in the witness.

16 DONALD SIMON
17 was called as a witness, and after having been
18 first duly sworn, testified as follows:

19 E X A M I N A T I O N

20 BY MR. SHERK:

21 Q Sir, please state your name for the
22 record.

23 A Donald Simon.

24 Q Mr. Simon, again, my name is John Sherk.
25 I'm with Shook, Hardy & Bacon representing the

1 Tennessee Valley Authority. And I will
2 primarily be asking you questions today.

3 Let me begin with this question.

4 Have you ever had your deposition taken before?

5 A Yes.

6 Q So you're generally familiar with the
7 rules of deposition etiquette?

8 A Somewhat.

9 Q Let me remind you, then.

10 To begin with, you'll need to give a
11 verbal response to every question.

12 Okay?

13 A Okay.

14 Q Uh-huhs and huh-unhs don't translate so
15 well on the record, so if you could avoid those,
16 that would be great.

17 All right?

18 A Yes.

19 Q If there's ever a moment when I pose a
20 question that you don't understand, please just
21 let me know, and I'd be happy to rephrase it for
22 you.

23 Okay?

24 A Okay.

25 Q But if you don't say anything to me, I

1 won't know that you've got a question about the
2 question.

3 All right?

4 A Okay.

5 Q This is not an endurance contest today,
6 Mr. Simon. If you want to take a break, please
7 just let me know, and we'll be happy to do that.

8 All right?

9 A Okay.

10 Q What is your current address?

11 A 113 Osprey Way, Harriman, Tennessee.

12 Q And your date of birth?

13 A 1/20/40.

14 Q Are you feeling okay this morning?

15 A Every day above ground is a good day.

16 Q Is there anything about your -- your
17 health or how you're feeling that would impede
18 you from giving full, truthful, and accurate
19 testimony today?

20 A Not to my knowledge.

21 Q Okay. Are you on any medications this
22 morning?

23 A No.

24 Q So you have taken no medications that
25 would in any way impair your ability to give

1 full, accurate, and truthful testimony?

2 A Correct.

3 Q Great. What did you do to prepare for
4 your deposition today?

5 A Just reviewed the data that I've been
6 gathering.

7 Q What sort of data is that?

8 A E-mails, publications, newspaper articles,
9 letters from TVA, general public knowledge,
10 comments from neighbors.

11 Q The e-mails, letters from TVA, and that
12 sort of material, were those among the documents
13 that your lawyers produced to us?

14 A Yes.

15 Q Okay. Since giving your lawyers the
16 materials that you did which they then forwarded
17 to us, have you found anything additionally that
18 you think would be responsive to our request for
19 productions?

20 A Not that I have.

21 Q Okay. Did you review the consolidated
22 class action complaint in preparation for the
23 deposition today?

24 A I reviewed it.

25 Q Did you see that consolidated class action

1 complaint before it was filed with the court?

2 A I don't believe so.

3 Q So then you would not have had any input
4 in drafting the consolidated class action
5 complaint?

6 A No, absolutely not.

7 Q Did you meet with counsel in preparation
8 for the deposition today?

9 A Yes.

10 Q On how many occasions?

11 A Just, I guess, yesterday.

12 Q Just one occasion, then?

13 A I'll have to think about that. There -- I
14 don't know what you're -- redirect that
15 question, would you, please?

16 Q Sure. Did you meet with your counsel in
17 preparation for today's deposition?

18 A Just yesterday.

19 Q Okay. In preparation for the deposition
20 today, did you talk with friends or family
21 members?

22 A Only that I was going to be at a
23 deposition today.

24 Q Did anybody give you any advice or
25 suggestions if that happened?

1 A No.

2 Q In preparation for today's deposition did
3 you visit any Internet sites, blogs or chat
4 rooms?

5 A To get ready for this?

6 Q Yes.

7 A No.

8 Q In connection with the spill at the TVA
9 facility, do you from time to time visit chat
10 rooms, blogs or Internet sites?

11 A I'm not very computer savvy, so I don't
12 know what you mean by a chat room or a blog. Do
13 I review e-mails, do I go to the TVA website,
14 things of that nature, yes, I do. But I don't
15 know about what this chat is about or what all
16 this other stuff is.

17 Q Or what blogs are?

18 A I know what it is, but I don't know -- if
19 I get on them, it's by accident.

20 Q All right. So you do have Internet at
21 home?

22 A Yes.

23 Q And are you retired, sir?

24 A Yes.

25 Q And is it fair to say that from time to

1 time you use Internet to correspond about the
2 TVA dike failure and this lawsuit?

3 A Yes.

4 Q Those e-mails that you have that regard
5 the dike failure and this lawsuit, were those
6 printed out and produced to your counsel?

7 A Yes.

8 Q Okay. Besides the TVA website, are there
9 other websites that you visit with regard to the
10 dike failure?

11 A Well, I'm on the Community Action Group,
12 so we do have some information on that. But
13 quite honestly, all these websites muddy up
14 together, so I don't know really what you mean
15 by that question because there's a Kingston
16 site, there's a TVA site, there's a link to this
17 site.

18 Again, I will rephrase the statement
19 that I'm not computer savvy. I don't spend any
20 more time on it than I absolutely have to.

21 Q So there's not a community interest Swan
22 Pond Internet group, for example?

23 A There is, and there isn't. But we
24 combined to become the Community Action Group.
25 So the original Emory River Group has one person

1 that kind of communicates to some people, I
2 guess.

3 But again, attending CAG meetings,
4 just doing a quick e-mail review in the morning,
5 that's about it for me.

6 Q What is the Emory River Group?

7 A It was a group that originally got
8 together to be the voice of the community.

9 Q How shortly after the spill was the Emory
10 River Group formed?

11 A I just don't remember.

12 Q A month or two?

13 A Not that soon, I don't think.

14 Q Within the first six months?

15 A Don't remember.

16 Q Okay. Who were the original participants
17 in the Emory River Group?

18 A Andy Aveil, Bobby Renfro.

19 Q Anybody else?

20 A Jerry Helm.

21 Q I apologize.

22 A I don't know. There were several others,
23 but whether they all became part of it, some
24 attorney out of Harriman and Kingston.

25 Q A local attorney?

1 A I believe so.

2 Q Okay. Any idea of his or her name?

3 A No. Scott, maybe, I think it might be.

4 Q Okay. And Mr. Simon, did you suggest that
5 the Emory River Group then transformed or became
6 the Community Action Group?

7 A We kind of combined for simplicity at the
8 request of meetings, so to speak, or
9 communication with Roane County commissioners
10 and/or TVA and/or EPA or TDEC.

11 Q Okay.

12 A And I might add that was the only way to
13 get funding.

14 Q So the Community Action Group actually has
15 an independent source of funds?

16 A The CAG does, but the Emory River Group is
17 basically nonexistent. It's just -- we have one
18 person that, for some reason, sends e-mails to a
19 group of people that were part of the original
20 group or were neighbors of hers.

21 Q And she is, again? I'm sorry, I may have
22 asked you.

23 A I think her name is Joanie Morgan or
24 Joanie something.

25 Q Okay.

1 A Her name would be in the records as a CAG
2 member.

3 Q Let's talk a little bit about your
4 background, Mr. Simon.

5 Are you currently married?

6 A No.

7 Q Have you ever been married?

8 A Twice.

9 Q What are the names of your former spouses?

10 A Maiden or married?

11 Q I'm sorry?

12 A Maiden or married name?

13 Q Maiden.

14 A First one would have been Joan McGinley.

15 Second one would have been Sally Volpe.

16 Q Okay. Do you currently have a
17 relationship with a domestic partner?

18 A Yes.

19 Q What is your domestic partner's name?

20 A Phyllis Burns.

21 Q And how long have you had a domestic
22 partner relationship with Phyllis Burns?

23 A Probably eight, ten years, something like
24 that. I'm not sure.

25 Q Does she reside with you at -- on Swan

1 Lake?

2 MR. BRANDES: Objection.

3 I think you misspoke there, Counsel.

4 THE WITNESS: No.

5 BY MR. SHERK:

6 Q Pardon me. Does she reside with you?

7 A Yes. The address is wrong.

8 Q The address is again?

9 A Well, it's 113 Osprey Way in Swan Harbor
10 Development.

11 Q Swan Harbor, there we go.

12 Do you have children?

13 A Yes.

14 Q Okay. Can you state their names and
15 addresses, please.

16 A Let's see, my oldest would be Kimberly
17 Kilbarger. She's in 1111, something, 5 Tega --
18 or Broken Brook Way, Tega Cay, South Carolina.

19 Second one would be Craig Simon.
20 He's on Country Club -- I don't know what the
21 number is -- Country Club Run or Road in Powell,
22 Ohio.

23 And Steve, the youngest one, is at
24 3572 Knoll Run Road in Columbus, Ohio.

25 Q How old is Kimberly?

1 A That's a good question. I'd say she's
2 pretty close to 50, I guess.

3 Q And Craig?

4 A A year younger.

5 Q So around 49?

6 A I guess.

7 Q And Steve?

8 A Three or four years younger, somewhere in
9 there.

10 Q Mid 40s?

11 A Yes, mid or late. I'm not sure. I'd have
12 to look it up.

13 Q Okay. I take it that none of them live
14 with you?

15 A No.

16 Q Have any of them lived with you since
17 you've lived in Tennessee?

18 A No.

19 Q Have any of your three children visited
20 you while you've lived here in Tennessee?

21 A Yes.

22 Q Which children and when?

23 A My son was down here over Father's Day
24 with his wife and grandson. My daughter has --
25 has not -- has only been here once since the

1 spill because her kids enjoy the water, and she
2 will not let her kids get in the water. So she
3 refrains from visiting.

4 My older son, probably -- he works
5 this area. He's probably passed through here
6 once. I guess that's about it that I can
7 remember, best of my knowledge.

8 Q Have all three children visited you before
9 the spill --

10 A Yes.

11 Q -- in 2008?

12 A Yes.

13 Q Okay. And have they all been to see you
14 since the spill?

15 A My youngest son has. My daughter once,
16 and that was it. My younger son may have
17 stopped to visit passing from Nashville to
18 Knoxville, as he has people that work for him in
19 this area.

20 That's all I can recall.

21 Q So was it your elder son, Craig, that was
22 here on Father's Day?

23 A No.

24 Q That was your younger son, Steve, that was
25 here on Father's Day?

1 A Yes.

2 Q With his children?

3 A One child.

4 Q Are either of your parents still living?

5 A No. My mother just passed less than a

6 month ago.

7 Q Okay. What was your father's cause of

8 death?

9 A 98 years old, 8 months, 8 days, and fell

10 and broke his hip, and I would imagine called

11 natural causes which is probably pneumonia.

12 Q 98 years old?

13 A Uh-huh.

14 Q What was your mother's cause of death?

15 A A stroke at 95 on her birthday.

16 Q She died on her birthday?

17 A Yes, less than a month ago.

18 Q Do you have siblings?

19 A Huh?

20 Q Do you have brothers and sisters?

21 A Yes.

22 Q Can you state their names and ages,

23 please?

24 A My oldest brother is Rodney Simon. He

25 would be 73. My younger brother John would be

1 63, maybe. And my sister, Judy, 61, 62,
2 somewhere in there.

3 Q What's Judy's last name?

4 A Baker.

5 Q Are your brothers and sisters in good
6 health?

7 A Reasonably so.

8 Q Have your brothers -- any of your brothers
9 and sisters suffered a serious disease or
10 illness?

11 A Not that I know of.

12 Q No cancer?

13 A Not that I know of.

14 Q Heart problems, that kind of thing?

15 A Not that I know of.

16 Q And it sounds like both of your parents
17 were vigorous individuals?

18 A Yes.

19 Q During the course of their lifetimes, did
20 they ever suffer a serious disease such as a
21 stroke, heart attack, cancer?

22 A My father didn't. My mother went to the
23 doctors frequently. What all she had, I don't
24 know, but we won't go there. But nothing that I
25 know about. I mean, I'm not somebody that

1 questions how healthy are you, what's wrong with
2 you, what are you going to the doctors for?
3 That's personal, that's their business. I don't
4 get involved.

5 Q If she would have had a significant
6 illness or disease, you probably would have
7 found out about it, though?

8 A Yes.

9 Q You are retired now, sir?

10 A Yes.

11 Q Starting from your point of retirement and
12 heading backwards, can we just quickly tick
13 through your employment history?

14 A Yeah. I retired four or five years ago
15 after a vigorous search to find a virgin
16 property to live in. Before that, I was with
17 American Greeting Card Company for about 40
18 years, lived on an airplane across the whole
19 United States for most of that.

20 Before that, I worked for Continental
21 Bakeries. Before that, I worked for a drug
22 supply wholesale company and did numerous jobs
23 all the way through high school and college.

24 Q Okay. So you retired from the American
25 Greeting Card Company in the early 2000s?

1 A Yeah, somewhere in there. Let's see,
2 we're at 10, '04 or '05, somewhere in there.
3 I'd have to look it up.

4 Q And you had been there 40 years?

5 A Approximately, yeah. Well, September of
6 '66.

7 Q You started in September of '66?

8 A (No audible response.)

9 Q Okay. What sorts of things did you do at
10 the American Greeting Card Company?

11 A Everything with sales. In the last
12 20-some years I was a national account manager,
13 dependent on which title they changed it to.
14 And I had an office within the office of the
15 Drug Emporium Corporation, which was a corporate
16 operation as well as franchise stores or
17 divisions.

18 I negotiated contracts across the
19 United States with franchisees, put on training
20 sessions, did market reviews. Basically that
21 was it.

22 Q And you had a large geographic scope?

23 A The United States.

24 Q And so you traveled with some frequency?

25 A Weekly.

1 Q Every week.

2 Did you go to head to head -- excuse
3 me.

4 Did you go head to head with Hallmark
5 Cards?

6 A Not so much Hallmark, no.

7 Q Continental Bakeries, you worked there
8 from 1996, backwards in time, to about when?

9 A I don't know without looking it up.

10 Q Okay. Have you ever been involved in
11 manufacturing?

12 A What do you mean by "involved"?

13 Q Did you ever work in a manufacturing plant
14 of any kind?

15 A For a short period of time I worked at
16 Josten Ring Manufacturing Company between jobs
17 once, but I think it was yearbooks or class
18 rings or something. I'm not sure.

19 That's as close as I can come to
20 manufacturing, probably.

21 Q Okay. Have you ever worked in an
22 automobile manufacturing plant or a chemical
23 plant?

24 A No.

25 Q Any involvement with the manufacture of

1 weaponry?

2 A No.

3 Q Ever work in the nuclear fuel industry?

4 A No.

5 Q Have you ever been exposed to asbestos?

6 A Sure. Everyone has.

7 Q Any particular situation where you were
8 involved -- you were exposed to asbestos beyond
9 what you might be exposed to on an everyday
10 basis?

11 A No, not that I know of.

12 Q So you never worked at a Navy shipyard,
13 for example?

14 A No.

15 Q Or you weren't a pipefitter?

16 A No.

17 Q Have you ever been exposed to silica?

18 A Don't know what it is.

19 Q How about beryllium?

20 A Not my field of expertise. I don't know
21 what it is.

22 Q When you were at the American Greeting
23 Card Company, were you exposed to hazardous
24 agents or toxins within the regular course of
25 your employment?

1 A Not that I know of.

2 Q Did you ever have any on-the-job injuries?

3 A No.

4 Q Have you ever had any medical problem that

5 you associate with your employment?

6 A Not really.

7 Q For example, you know, an illness of any

8 sort that you attributed to your work.

9 A No.

10 Q A broken bone that occurred while you were

11 at work?

12 A No.

13 Q Did you ever make a Workers' Compensation

14 claim?

15 A Not that I know of.

16 Q You were more on the management side;

17 correct?

18 A Yes.

19 Q Was that pretty much your entire career at

20 the American Greeting Card --

21 A Started out in sales. Just a sales rep,

22 territory rep.

23 Q And then you were promoted into

24 management?

25 A Yes.

1 Q Beside this lawsuit, have you been a party
2 to other lawsuits?

3 A Got sued for a student loan by my son, but
4 we've all been there. Other than that, not that
5 I know of.

6 Q So you've never been involved in a
7 personal injury lawsuit?

8 A No. I had a car accident in California
9 one time in a company car, but I don't remember
10 any of the details about it except there was an
11 insurance claim. That's all I know. But I
12 don't think we had any legal stuff that I know
13 of. I don't know. It's 25 years ago. That's
14 yesterday.

15 Q Have you ever been convicted of a crime?

16 A No.

17 Q Ever filed bankruptcy?

18 A No.

19 Q How did you get involved in this lawsuit?

20 A I live in the valley of the spill in a
21 community that's been grossly affected by what
22 has happened with the largest disaster spill in
23 the nation.

24 Q How did you become a class representative
25 in this lawsuit, which I'll call Chesney?

1 A Excuse me. Rephrase that.

2 Q Yeah. How did you become a class
3 representative in this lawsuit, which is
4 entitled the Chesney case?

5 A Probably because I feel deeply about what
6 has happened to myself and my community. And
7 I've been involved, and I was asked if I wished
8 to be a part of it. And my diminished property
9 values, I feel it's important to defend myself
10 to try and survive out here.

11 Q Did you actively seek out lawyers to bring
12 a lawsuit for you?

13 A I don't know what you call by "actively
14 seeking," but we had attorneys visit here and
15 make presentations. And all I did was attend
16 different presentations and select the one I
17 thought best represented the community and
18 myself.

19 Q Those presentations were given shortly
20 after the spill?

21 A I guess so. Reasonably so. I don't
22 remember the exact dates. There was quite a few
23 that came and made different presentations at
24 different times.

25 Q How did you choose the attorney you

1 ultimately ended up with?

2 A Just a judgment call on my part, based on
3 what I heard.

4 Q Who was that?

5 A That was the Villari firm.

6 Q Okay. Prior to the present case we're in,
7 the Chesney case, were you a class
8 representative in a case that had a different
9 name?

10 A Not that I know of.

11 Q Okay. Are you aware that there was a
12 predecessor case called Long, the Long class
13 action that you were named a class
14 representative in?

15 A No, don't remember it. Is that for stock
16 or something? I mean, I can't remember any kind
17 of class action suits. But unless it was one of
18 these class action suits for one of these stock
19 deals.

20 Q No. It was a lawsuit arising out of the
21 Kingston spill.

22 A No remembrance.

23 Q Okay. Fine. Have you had the same lawyer
24 throughout?

25 A Yes.

1 Q Other than getting ready for the
2 deposition, how many meetings have you had with
3 your counsel?

4 A Maybe a couple, one at my house, one
5 downtown Knoxville. I don't -- I don't remember
6 any others.

7 Q Do you keep up with the progress of the
8 lawsuit?

9 A I keep up with the spill, and if the
10 lawsuit's a part of it, yes. Do I read the
11 newspaper, do I read e-mails, do I attend
12 meetings, yes.

13 Q In terms of the legal side of things,
14 though, you're less focused on that?

15 A Yeah. That's what I have counsel for.

16 MR. BRANDES: Objection.

17 Go ahead.

18 THE WITNESS: That's what I have
19 counsel for. I let them handle that. If they
20 need to, they can tell me something or call me.

21 BY MR. SHERK:

22 Q Okay. Do you make any effort to
23 communicate with the other named class
24 representatives in your lawsuit?

25 A Yes and no. Some of the same people that

1 are on the lawsuit are on the CAG, so that would
2 be communicating, I guess, because you attend
3 meetings together.

4 Some of the neighbors are on the
5 same law firm, and there's always some
6 conversation. So yes and no.

7 Q There's no set meeting of class
8 representatives for your lawsuit or monthly
9 phone call or anything like that?

10 A No.

11 Q Okay. All right. Have you reviewed the
12 effective class action complaint in this case?

13 A Reviewed it, yes.

14 Q And did you ever review the class action
15 complaint in the Long case?

16 A I just don't remember that Long thing,
17 whatever you're bringing up. I can't relate
18 that to that.

19 Q Have you met with Erin Brockovich about
20 this lawsuit?

21 A I did not meet with her. I attended one
22 of her sessions, one or two of them, I'm not
23 sure.

24 Q She was affiliated with a different law
25 firm, not the one you chose?

1 A I'm not even sure she was affiliated with
2 a law firm. All I know she came in with a
3 presentation at Roane State Community College.
4 What her real function was, I'm not sure.

5 Q Have any of your friends and family
6 members, did they encourage you to become a part
7 of the lawsuit?

8 A No.

9 Q This was your own decision?

10 A Yes.

11 Q Okay. Has anyone tried to discourage you
12 from becoming involved in litigation involving
13 the TVA spill?

14 A No.

15 Q Okay. You're aware that you're involved
16 in a proposed class action?

17 A Yes.

18 Q What does that mean to you?

19 A It means to me that basically a community
20 that has diminished property values and has been
21 grossly affected by the outcome of mismanagement
22 is trying to recoup part of our life.

23 Q You're aware that you're a class
24 representative in this case?

25 A Yes.

1 Q Okay. What do you see as your duties and
2 responsibilities as a class representative?

3 A Just to represent friends, family,
4 community.

5 Q Did you do anything in particular to
6 prepare yourself to be a class representative?

7 A I just stayed deeply involved.

8 Q Have you investigated properties other
9 than your own with regard to the allegations
10 made in this lawsuit?

11 A What do you mean by that?

12 Q Have you gone, for example, onto
13 neighbors' properties or onto properties within
14 the class area and inspected them with regard to
15 the allegations in this case?

16 A Yes.

17 Q Okay. Can you give me some examples?

18 A I think it's about 11 miles downstream,
19 the Sexton property. She contacted the CAG due
20 to their cove filling up with fly ash
21 cenospheres, whatever you want to call it, and
22 lack of response from the TVA to do something
23 about it. And her property was up for sale, so
24 I visited that property.

25 I visited Robert's Landing where the

1 Harriman City treated discharge sewer water is
2 supposed to be discharged. He had the same
3 problem in his cove. And he's probably mile
4 marker 3 on the Clinch.

5 Do I look at the coves in my
6 immediate neighborhood of Swan Harbor and Emory
7 Cove, yes, I do. Have I been to the Tom
8 Grizzard property, which is at mile marker
9 almost 5, yes, I have.

10 Have I been on the site, yes. Have
11 I taken a chopper tour, yes. Have I taken bus
12 tours, yes. Have I met with project managers,
13 yes. Have I met with EPA officials at the site,
14 yes. Have I met with TDEC officials at the
15 site, yes.

16 Q You mentioned a woman named Sexton who had
17 cenospheres in the area of her property?

18 A Yes.

19 MR. BRANDES: Objection.

20 Go ahead.

21 BY MR. SHERK:

22 Q Did she have riverfront property?

23 A Yes.

24 Q And you suggested that she had requested
25 cleanup, and it had not been forthcoming?

1 A She requested somebody from the CAG view
2 her property to present it to TVA people at our
3 monthly meeting, which is what I did.

4 Q Was there a response after you got
5 involved?

6 A Yes.

7 Q Was it cleaned up?

8 A Eventually.

9 Q Now, you mentioned Robert's Landing?

10 A Yes.

11 Q Where is Robert's Landing?

12 A Bluff Road, approximately mile marker 3 on
13 the Clinch.

14 Q What happened there? I just missed it.

15 A Same scenario. He called and said he had
16 raw sewer water there that discharges on an
17 easement he has given the City of Harriman. And
18 we had contacted the State about signage about
19 sewage that said water is being discharged here,
20 and we went with the state representatives and
21 the City of Harriman utility people and climbed
22 down and visited many of the raw sewage
23 treatment areas.

24 And we were told that it was
25 discharged at that area. And so the gentleman

1 was at a CAG meeting, asked me if I would come
2 out and take a look at it.

3 Q And you did so?

4 A And I did so.

5 Q Were you able to help effect a resolution
6 of that situation?

7 A Yes, because he didn't know that the spill
8 had blown off the raw sewage discharge, and it's
9 still blowing out, and nobody advised him.

10 So every month at the meetings I
11 request, has the sewer line been hooked up
12 again, and why don't you communicate that with
13 the gentleman that owns the property.

14 Q Has that been resolved, to the best of
15 your knowledge?

16 A No, it's still not hooked up. It was
17 supposed to be done in July, and now they're
18 saying maybe this month.

19 Q So the complaint there was not fly ash or
20 cenospheres?

21 A Both. The sewer system and his cove with
22 debris and fly ash and whatever else is in there
23 that I can determine by visual looking.

24 Q What was the gentleman's name?

25 A Robert Francis.

1 Q Does he have riverfront property?
2 A Yes.
3 Q You talked about the Tom Grizzard
4 property?
5 A Yes.
6 Q Does he have lakefront property?
7 A Yes.
8 Q And he's at mile marker 5?
9 A Approximately.
10 Q And the complaint, there was cenospheres?
11 A No. The complaint there is it's the only
12 place we could launch our boats because the
13 river was either closed or their launch ramps
14 were not open.
15 Q Okay. How did that situation get
16 resolved?
17 A They reopened the river, so to speak.
18 Q Now, the river has been closed from time
19 to time; correct?
20 A It's been an advisory and closed from time
21 to time.
22 Q Was that one of the instances where there
23 was an advisory or a closure?
24 A Closure.
25 Q Is Robert Francis related to Jewel

1 Francis?

2 A I don't know.

3 MR. SHERK: Can we go off the record
4 for just a second?

5 THE VIDEOGRAPHER: Going off the
6 record. Time is 10:00.

7 (Off the record.)

8 THE VIDEOGRAPHER: On the record.
9 Time is 10:00.

10 (Marked Exhibit 1.)

11 BY MR. SHERK:

12 Q Mr. Simon, you've been handed Exhibit
13 No. 1, and I'll represent to you that this is a
14 copy of the consolidated class action complaint
15 in the Chesney case.

16 Have you seen this document before?

17 A I'm not sure.

18 Q Take a moment to review it, if you'd like.

19 A I looked at it. I don't have a great
20 recollection of it. There's a lot of -- lot of
21 stuff here, there's a lot of legal stuff. It's
22 just not something I'd spend a lot of time
23 looking at.

24 Q Lot of legal stuff there, that's right.

25 Okay. Let's focus in on the very

1 first page of it, the top left-hand corner. It
2 lists a whole bunch of names up on the top
3 left-hand corner.

4 Do you see those names?

5 A Uh-huh.

6 Q Do you recognize any of the individuals
7 that are listed there?

8 A No.

9 Q So none of the plaintiffs besides yourself
10 are on the Community Action Group; correct?

11 A No.

12 Q So you've never met George Chesney, Virgil
13 Maines, William Gaddis?

14 A I can't say I didn't meet them, but I
15 don't know them. And if I did meet them, I
16 wouldn't remember them.

17 Q Okay. Fair enough.

18 A I don't know who they are.

19 Q In the consolidated class action
20 complaint, Plaintiffs, including yourself, have
21 requested that the Court certify certain
22 classes.

23 Are you familiar with the classes
24 that --

25 A Yes.

1 Q What are they?

2 A There's a class down river, and there's a
3 class from mile marker zero to mile marker 6.

4 Q Okay. Pardon me a second, Mr. Simon.
5 Tough to get organized.

6 If you could turn to page 27 of
7 Exhibit No. 1. On page 27 it lists three
8 proposed classes.

9 Do you see those there?

10 A Uh-huh, yes.

11 Q Do those classes correspond to your
12 understanding of the classes that are being
13 sought to be certified in this case?

14 A Yes, as much as I understand.

15 Q Okay. Did you have any input in
16 developing the -- these classes?

17 A No.

18 Q Okay. Do you consider yourself to be a
19 member of one or more of these classes?

20 A Yes.

21 Q Which ones?

22 A All three.

23 Q Did you ever consider being a plaintiff in
24 an individual case rather than a class
25 representative in a class action?

1 A If I was intelligent to do so, I might
2 consider it. But I don't think we had those
3 kind of options in this situation. This affects
4 the whole community, not me alone.

5 Q Did you ever think that you might get a
6 speedier resolution by pursuing your own lawsuit
7 rather than being involved in a class action?

8 A Not based on my knowledge of the legal
9 profession.

10 Q Did you ever consider that you could
11 receive more damages or additional damages if
12 you pursued your own lawsuit as opposed to being
13 involved in a class action?

14 A I never really gave any thought to that.
15 I hadn't really thought about the financial
16 resolution. That hasn't been one of my main
17 concerns, as far as what I'm going to get or
18 something like that.

19 First I want to see it get cleaned
20 up properly, and then I want to see to it that
21 we all get taken care of in a responsible way.

22 Q So your two objectives are get the place
23 cleaned up, number one; and number two, you
24 would like to be compensated?

25 A If it doesn't get cleaned up properly,

1 we're still back to ground zero. That's the
2 first thing that has to be addressed. This has
3 to be cleaned up properly, has to be done right.

4 Secondly, those of us left in the
5 valley of the spill need some sort of
6 restitution for what we've had to live through
7 for the last 20 months so far.

8 Q Do you believe that you sustained any
9 personal injuries as a consequence of the dike
10 spill?

11 A No, not to my knowledge.

12 Q Do you know of others in your fairly
13 immediate area who have claimed that they have
14 sustained personal injuries as a consequence of
15 the dike spill?

16 MR. BRANDES: Objection.

17 Go ahead.

18 THE WITNESS: Only hearsay.

19 BY MR. SHERK:

20 Q What kinds of things have you heard?

21 A Newspaper said that there's somebody on
22 the circle close to us that can't live with his
23 wife, and he moved her to Oliver Springs or some
24 city. That's the only type of thing I've ever
25 heard. But I can't verify anything with regard

1 to some of the things I've heard.

2 Q Do you know a woman named Angela Orbesses?

3 A How do you spell that?

4 Q I'm not sure.

5 A No, I don't think so.

6 Q All right. Other than the neighbor that
7 you just described who had to move his wife out
8 of the area, have you heard of others in your
9 general area who believed they may have
10 sustained physical injuries as a consequence of
11 the dike failure?

12 MR. BRANDES: Objection.

13 Go ahead.

14 THE WITNESS: Only rumors.

15 BY MR. SHERK:

16 Q Do you know other individuals who have
17 different lawsuits against TVA than you do?

18 A Not to my knowledge. I mean, other people
19 have lawsuits. What they are, I really don't
20 know.

21 Q The members of the Citizens Action Group,
22 CAG, do you know whether any of them have their
23 own lawsuits that don't include you?

24 A I think so. You know, without --
25 factually, I think somebody has retained Gary

1 Davis, but I think that person may not be on the
2 committee anymore. There's been people come and
3 go. But who's got what lawyers and what they
4 have going, I really don't know.

5 Q Have you heard of the Auchard lawsuit?

6 A Who?

7 Q Auchard lawsuit, called Auchard.

8 A No.

9 Q That has approximately -- probably over
10 300 individual plaintiffs.

11 A I'm not aware of it.

12 Q Okay. Have you ever tried to convince
13 someone to join your class action rather than
14 being a part of an individual lawsuit?

15 A No.

16 Q Has anybody tried to persuade you to
17 pursue your own individual claim as opposed to
18 being involved in the class action?

19 A No.

20 Q Okay. Are you aware that the lawsuit that
21 you're involved in now is actually the -- the
22 product of a merger between three class actions?

23 A Yes.

24 Q Okay. How do you understand that that all
25 took place?

1 A I really don't. It didn't pertain to me.
2 I mean, I have counsel, whatever they decided to
3 do, I go with. How it works and what have you,
4 I don't know. I didn't get involved in it.

5 Q How did you get the word about the merger?

6 A I don't remember.

7 Q Do you know anyone who was a class
8 representative in the former lawsuit that you
9 were involved in but is no longer a class
10 representative in the suit that you are involved
11 in now?

12 A What former lawsuit?

13 Q The Long suit.

14 A I don't have any recollection of that Long
15 deal, whatever you're talking about.

16 Q Has your domestic partner, Phyllis Burns,
17 ever been a named class representative in a
18 class action?

19 A Not to my knowledge. Just this one.

20 Q Is she still a named class representative,
21 to the best of your knowledge?

22 A She's still with the same firm as I am,
23 yes.

24 Q I didn't see her on the -- on the list of
25 folks on the first page of this consolidated

1 class action complaint.

2 A I don't know why she -- I don't know. I
3 mean she filled out the paperwork for Villari to
4 represent her, and that's -- that was sent back
5 in to them. And she's on that group with me, I
6 guess. I mean, same property.

7 Q How were you chosen to be a class
8 action -- a class representative in this case?

9 A We were asked if we wished to be one.

10 Q And did you lobby for the position?

11 A No.

12 Q Okay. How did you go about becoming one?

13 A I guess just being actively involved and
14 asked to represent our community and our
15 neighborhood and our group. And I accepted.

16 Q Okay. In the Long complaint, claims were
17 made for negligent and intentional infliction of
18 emotional distress.

19 Are you aware of that?

20 A No.

21 Q Do you believe that you have suffered
22 emotional distress as a consequence of the spill
23 at the TVA facility?

24 A I believe the whole community has,
25 including me.

1 Q What does your emotional distress consist
2 of?

3 A Basically, I'm a prisoner in my own home,
4 and it's Russian roulette every morning I leave
5 the house to come and go from my property.

6 Q When you say Russian roulette, what you
7 mean?

8 A Well, this morning was a classic example.
9 I was stopped three times trying to get out of
10 the neighborhood. A backhoe, a utility backhoe
11 with a flagger, another utility vehicle with a
12 roadblock, so I had about a three-minute delay
13 at one of them, about a minute at the other one.

14 That's a daily occurrence, just to
15 leave your neighborhood. That's not even going
16 into the distressed roads. There's something
17 every day. It's a guessing game as to what
18 you're going to encounter every time you leave
19 your neighborhood.

20 Q And this pertains to the inconvenience of
21 traveling from your house to someplace else?

22 A Yes, sir.

23 Q When you say that you were a prisoner in
24 your own home, is that the kind of situation
25 you're referring to as well?

1 A What I'm referring to is you live your
2 life around what you anticipate of the
3 convenience of being able to get in and out of
4 your own neighborhood. Will I hit the train?
5 Will I run into construction equipment? If I
6 wait 15, 20 minutes, I probably won't run into
7 it.

8 That's just a guessing game. Will I
9 run into road problems with repairs? Will I run
10 into construction equipment? Every day of your
11 life in that spill is Russian roulette to decide
12 what you will encounter, just to get in your car
13 and leave your neighborhood. It's no different
14 than living in metro city with bumper-to-bumper
15 traffic. It's just a different delay and
16 agitation to you mentally and to your quality of
17 life.

18 Q The feelings that you have that you
19 described are ones of annoyance at being
20 inconvenienced?

21 A I'm very passionate about the
22 inconvenience that's been encountered that I did
23 not request from the spill. It is a very
24 agitating situation when you encounter things on
25 a daily basis.

1 Q This was not something you expected?

2 A No, sir. No, sir.

3 Q Have you seen a doctor for your feelings
4 of annoyance?

5 A Yes. I requested through TDEC that I see
6 a -- some sort of counselor to vent my
7 frustrations of the spill area. I got four free
8 visits.

9 Q Did you take them?

10 A I took them, sure.

11 Q Who were they with?

12 A I don't know. I supplied whatever the
13 guy's name was.

14 Q You did?

15 A It was in Harriman. I don't know what his
16 name was. But I supplied it to someone.

17 Q Okay.

18 A I mean, they're not professional. There
19 was a phone -- cell phone call taken on the
20 first visit during the visit. And the second
21 visit, the phone went off three or four
22 different times.

23 So quite honestly, it wasn't a very
24 professional visit.

25 Q So these were phone call sessions?

1 A No, no. The counselor, whoever he was, or
2 shrink, took phone calls during my visit.

3 Q How long were the visits?

4 A I think 40 minutes or so.

5 Q They were in person then?

6 A Yes.

7 Q And in someone's office that may have been
8 a psychologist or psychiatrist?

9 A It's a community health deal in Harriman.

10 Q Could have been just a counselor, then?

11 A Could have been.

12 Q And this was organized or arranged through
13 TDEC?

14 A It was -- no, through the Tennessee Health
15 Department.

16 Q You can't remember the name of your
17 counselor?

18 A No.

19 Q Okay. Were your feelings of annoyance
20 related solely to the inconvenience that you
21 experienced every day in terms of travel, or
22 were they regarding in any way the spill that
23 had occurred?

24 A It regarded everything. It was
25 all-encompassing. You know, ash at my

1 shoreline, ash in my yard, ash in my house, road
2 inconveniences, noise, dredge machines. I mean,
3 it was all-encompassing. It's extremely hard to
4 put into words 20 months of inadequate
5 situations regarding the spill to explain just
6 how mentally agitating it is to live out there.

7 Q Other than the four visits to a counselor
8 or whomever that you had, did you take any other
9 steps to meet with anybody to discuss your
10 feelings of frustration?

11 A No.

12 MR. BRANDES: Objection.

13 Go ahead.

14 THE WITNESS: No.

15 BY MR. SHERK:

16 Q Did you ever talk to a pastor or a
17 minister --

18 A No.

19 Q -- about your feelings.

20 Do you belong to a church in the
21 area?

22 A No.

23 Q Are you aware that your current
24 consolidated class action complaint does not
25 contain a claim for emotional distress?

1 A If that's part of health, I'm aware that
2 it's not related to any health issues, yes.

3 Q Okay. I'm not sure I quite understood
4 your answer.

5 A Well, I know this has nothing to do with
6 health issues, this class action. If you relate
7 mental and physical ailments to health, then,
8 you know, I realize that's not part of this
9 particular class action.

10 Q Okay. How do you relate your feelings in
11 this lawsuit?

12 MR. BRANDES: Objection.

13 What do you mean by that? Can you
14 clarify?

15 BY MR. SHERK:

16 Q To the extent that you have feelings of
17 frustration caused by the inconvenience that
18 you've experienced, do these have no part in
19 this lawsuit?

20 A Rephrase that.

21 Q Sure. You've testified about feeling
22 frustration because of the daily inconveniences
23 that you've experienced; correct?

24 A Yes.

25 Q Okay. To the extent that those are

1 emotional distress claims, is it your view,
2 then, that they are no -- they have no part in
3 this lawsuit?

4 MR. BRANDES: Objection.

5 Go ahead.

6 THE WITNESS: No. I feel they do
7 have a part in it. It's all-encompassing. The
8 frustrations and the reason I am so deeply
9 involved in this, whether it's attending
10 meetings, whether it's going to the Roane County
11 Highway Department, all the things I've been
12 involved in, it's all-encompassing.

13 I mean, this is -- the spill didn't
14 just affect me. It just didn't affect a small
15 area. Everything is tied to this particular
16 spill that no one asked for. That's where my
17 problem is, and that's why I'm so passionate and
18 so involved to see to it that this community and
19 myself get our quality of life back.

20 MR. SHERK: I think we've been going
21 about an hour. Would this be a good time to
22 take a five-minute break?

23 THE WITNESS: Fine by me.

24 MR. SHERK: Okay.

25 THE VIDEOGRAPHER: Going off the

1 record.

2 (Recess.)

3 THE VIDEOGRAPHER: On record. This
4 marks the beginning of tape No. 2. Time is
5 10:40.

6 BY MR. SHERK:

7 Q Mr. Simon, we're back after a short break.

8 And when we left off, we were
9 talking about some things that you reported
10 experiencing after the spill at the TVA
11 facility; correct?

12 A Correct.

13 Q When you talk about, you know, trucks and
14 the backhoes -- I think you mentioned trains as
15 well -- are those vehicles conducting the
16 cleanup effort?

17 A They're part of it. Or repairs, or just
18 supplies in and out.

19 Q When you've reported, as you have to me
20 today, experiencing frustrations and such, have
21 those caused you in any way to be physically
22 ill?

23 A Not that I'm aware of.

24 Q The counselor, or whomever you saw for the
25 four sessions, was not in any way related to a

1 physical problem that you had?

2 A No.

3 Q It was more in the nature of what you say
4 to be frustration?

5 A Yes.

6 Q Okay. And have you thought of his name
7 since --

8 A No.

9 Q -- we talked earlier?

10 A No.

11 MR. SHERK: Okay. Counsel, I wonder
12 if you get a hold of that name if we could get
13 that.

14 MR. BRANDES: I'll speak with you
15 about that separately.

16 BY MR. SHERK:

17 Q When you think about, as you discussed the
18 term "emotional distress," what does that mean
19 to you?

20 MR. BRANDES: Objection.

21 Go ahead.

22 THE WITNESS: Like anyone, just
23 constant agitation. No different than someone
24 that is stuck in a traffic jam. It's constant
25 irritation.

1 BY MR. SHERK:

2 Q That would be akin to what someone who
3 lives in L.A. and experiences traffic problems
4 every day might undergo?

5 MR. BRANDES: Objection.

6 Go ahead.

7 THE WITNESS: No. It wouldn't be the
8 same because it wasn't caused by a natural
9 disaster created by a spill.

10 BY MR. SHERK:

11 Q The counseling sessions that you had, did
12 anyone suggest that you go to those?

13 A No.

14 Q That was just something that you
15 determined to do on your own?

16 A Yes.

17 (Marked Exhibit 2.)

18 BY MR. SHERK:

19 Q Mr. Simon, I'm going to hand you what's
20 been marked Deposition Exhibit No. 2, and I'll
21 represent to you that this is a document
22 entitled "Plaintiff's Responses to TVA's First
23 Set of Interrogatories to Plaintiffs George
24 Chesney, et al."

25 Please take a look at that.

1 A You wish me to read all this?

2 Q Just take a quick glance through it.

3 Have you ever seen that document
4 before?

5 A Not that I'm aware of. I've kind of
6 looked at it. Do I comprehend all of it, no.

7 Q Do you remember supplying any answers to
8 the questions that are posed in this -- in that
9 document?

10 A Not that I saw in that quick review.

11 Q If you would turn your attention to page 6
12 at the very bottom. It says interrogatory No.
13 3.

14 Do you see that?

15 A Uh-huh.

16 Q Okay. Let me read something for you.
17 Beginning on page 6, Mr. Simon, it says,

18 "State whether you are
19 claiming any personal injury,
20 physical harm, physical symptom,
21 illness, mental or emotional
22 problem, emotional distress,
23 impairment of physical
24 condition, or other damage to
25 your person that you have

1 allegedly suffered as a result
2 of TVA's conduct as alleged in
3 the Complaint."

4 Did I read that correctly?

5 A That's what it says here.

6 Q Okay. Then look at the bottom of that page
7 and, Mr. Simon and Counsel, I highlighted a
8 sentence at the bottom of that page. Let me
9 read that. It says,

10 "At this time,
11 Plaintiffs are not claiming any
12 current personal injury,
13 physical harm, physical symptom,
14 illness, mental or emotional
15 problem, emotional distress,
16 impairment of physical
17 condition, or other damage to
18 Plaintiffs' person suffered as a
19 result of TVA's conduct."

20 Did I read that correctly?

21 A Yes.

22 Q Mr. Simon, are you, in fact, not making a
23 claim for emotional distress as this
24 interrogatory response states?

25 MR. BRANDES: Objection.

1 Go ahead.

2 THE WITNESS: Not at this time.

3 BY MR. SHERK:

4 Q So you endorse this response that you're
5 not making an emotional distress claim at this
6 time?

7 A Yes.

8 MR. BRANDES: Objection.

9 Go ahead.

10 BY MR. SHERK:

11 Q Have you heard of a class action called
12 Mays, the Mays class action?

13 A No.

14 Q Do you know an attorney named Gordon Ball
15 who is generally in this area?

16 A No.

17 Q Mr. Simon, let's think back to
18 December 22, 2008, the day that the containment
19 dike failed.

20 Where were you on that day?

21 A The night of the spill, which actually is
22 the morning of the 23rd; is that correct?

23 Q Sure.

24 A In bed.

25 Q How did you first learn or hear about the

1 dike failure?

2 A The TV.

3 Q In the morning?

4 A Yes.

5 Q So in the evening of the 22nd and through
6 the early morning hours of the 23rd, you were
7 unaware of what had happened?

8 A Correct.

9 Q What did you do once you learned of the
10 spill?

11 A Drove down Swan Pond Circle to see if the
12 road was actually closed because there was no
13 comprehension of what had happened based on what
14 we heard or saw on TV.

15 Q What did you find there?

16 A Massive wall of ash.

17 Q What did you do?

18 A Turned around, went back home, and told
19 Phyllis she'd have to go out a different way to
20 get to work.

21 Q Were you at home all day the day after the
22 23rd of December?

23 A No.

24 Q What did you do that day?

25 A I don't know without looking it up. I'm

1 in and out almost every single day several
2 times, but I'm sure I was out of there for some
3 reason or another.

4 Q Other than driving to -- down Swan Pond
5 Road, as you said --

6 A Swan Pond Circle.

7 Q Pardon me.

8 -- Swan Pond Circle the morning of
9 the 23rd, did you go back to visit the site that
10 day?

11 A No, we couldn't. We couldn't even get
12 back in our own neighborhood.

13 Q There was no way to get to your house?

14 A No. We were kept out by -- I don't know
15 if they were TVA police or whoever the goon was
16 standing there that was trying to say he didn't
17 know where we lived and he didn't know of such
18 an address. So we were restricted to get even
19 back into our own homes, even going out for the
20 day. So I know I went out that day.

21 Q So you were able to go in and out; they
22 had just posted people --

23 A If we could convince them to let us, yes.

24 Q And you were able to do that?

25 A That day, yes. And then we left. We left

1 town. We were gone for four or five days,
2 something like that, two or three days,
3 something.

4 Q Was that a previously scheduled trip away?

5 A Yes.

6 Q When you returned to your house four or
7 five days later after having taken a trip, what
8 did you do in connection with the spill?

9 A I begged to go -- be able -- be able to
10 get back to my house because without a thing to
11 hang on your rearview mirror, you couldn't get
12 home. And the TVA police did not seem to know
13 any of the addresses of people that lived in the
14 area. So if you couldn't produce enough
15 evidence, they wouldn't let you -- unless you
16 could find a way to let him follow you or get
17 somebody to follow you back in there, or any
18 guests that you had.

19 Q Were you able to get back into your house?

20 A After some delay, yes. Actually, we had
21 to turn around. We were stopped on the normal
22 road to go in. We were sent around the back
23 way, and we had to convince them at both
24 checkpoints that we lived out there.

25 Q What did you do within the first few weeks

1 after the spill?

2 A Without looking at a calendar with some of
3 my hand scratching on it, I'm not exactly sure.
4 Did I go in and out, yes. Did I review the
5 spill, not really, because you couldn't.

6 Q In the first six months of -- of time
7 after the spill, did you speak with neighbors in
8 the area about what had happened?

9 A Yes.

10 Q How did they react?

11 A About like everybody else. The whole
12 community -- I guess it was -- everybody pretty
13 much reacted the same way. Many people thought
14 that they -- in their unprofessional viewing of
15 the site on a daily basis -- thought there was
16 leaks and problems with it. Many people in that
17 area worked for TVA and said they knew there was
18 leaks and problems out there.

19 Many people were very concerned
20 about the air they were breathing. Some people
21 left. Some people requested to get out of
22 there. So there was many discussions about the
23 entire spill, no one particular part of it, but
24 the entire spill and how basically, you know, we
25 didn't ask to be dumped on.

1 And that was the big conversation,
2 is, you know, how is it going to affect us long
3 term? Will it affect our health? What is it
4 going to do to our property? What is it going
5 to do to our neighborhood? What is it going to
6 do to our quality of life?

7 And I would say that was the
8 discussion constantly.

9 Q So some people decided to get up and leave
10 the community altogether?

11 MR. BRANDES: Objection.

12 Go ahead.

13 THE WITNESS: Temporarily.

14 BY MR. SHERK:

15 Q Any folks move out permanently within the
16 first six months?

17 A I don't have knowledge -- I can't give you
18 facts on that. I'm sure there were some that
19 TVA paid for them to go places, yes.

20 Q But nothing specific?

21 A Yes, I know. Yes. Let me rephrase that.

22 The poster child white house that was
23 surrounded by ash, I know they were relocated
24 permanently because their house was surrounded.

25 There were some other poster children

1 up the lakeshore slough that were probably
2 relocated. Do I know them, did I talk to them,
3 no.

4 Q What instructions were you given by local
5 authorities in the days after the dike failure
6 on December 22, 2008?

7 MR. BRANDES: Objection.

8 Go ahead.

9 THE WITNESS: Instructions?

10 BY MR. SHERK:

11 Q Yeah.

12 A We didn't get any instructions from
13 anybody except at the checkpoint.

14 Q Did you ever get any instructions
15 regarding drinking water?

16 A I think after we finally requested some
17 information. Communication from TVA and
18 response units was so poor that all I can do is
19 remember that we said, Why don't you give us
20 something by mail, by door knockers, Give us
21 some information. We had to beg for everything.
22 We were just told to go to the outreach office
23 and the outreach office would take down
24 information.

25 But as far as communication, very

1 poor.

2 Q The outreach office was opened very, very
3 shortly after the spill; correct?

4 MR. BRANDES: Objection.

5 Go ahead.

6 THE WITNESS: I don't remember when
7 it opened. It had sporadic hours. It wasn't
8 well managed either.

9 BY MR. SHERK:

10 Q During the first six months, were you
11 communicating with TDEC and the EPA and the
12 Tennessee Department of Health as well as TVA?

13 A No.

14 Q Have you continued to reside at your
15 property since the spill in 2008?

16 A Yes.

17 Q Have you ever left temporarily for any
18 significant period of time?

19 A Yes. I mean, I travel a great deal. Yes,
20 we're gone quite a bit.

21 Q Since the spill, how many days a month, on
22 average, would you be gone doing your traveling?

23 A You mean for overnight?

24 Q Yeah.

25 A Depends on the month. If it's going to be

1 October, I'll probably be gone five, six, seven,
2 eight days. I just finished being gone for four
3 days.

4 It depends on where I have a
5 barefoot water ski endurance race, figure 8, or
6 tournament to go to, or determines if I'm going
7 to go visit a relative. But to spell out
8 exactly how many days I might anticipate being
9 gone, I'm retired, I have the luxury of being
10 able to come and go.

11 Q So you may be gone a few days a month or
12 maybe more?

13 A Yes.

14 Q Are you a water skier?

15 A Yes. That's what brought me here.

16 Q To ski on the lake?

17 A No, no, no, not the lake. It took me
18 several years, seven, eight years, plus aerial
19 views and what have you to select this place
20 that I considered would be conducive to my
21 retirement and my world ranking as a
22 professional barefoot water skier. That's what
23 I'm here for.

24 Q Where do you do your barefooting?

25 A The Emory River and all over the United

1 States.

2 Q How long have you been doing that?

3 A 35 years, probably. I don't know.

4 Q You said you're a professional?

5 A Well, I'm world ranked.

6 Q So you started barefoot skiing in your
7 late 20s, early 30s?

8 A No, probably in my 40s.

9 Q 40s.

10 A Early 40s, probably.

11 Q Had you skied before as a -- as a
12 teenager?

13 A Yeah. I've skied since about 12 years
14 old. Was a co-advisor for the Ohio State water
15 ski team. I've been a competitive slalom skier.
16 So water activities, recreational activities,
17 are a major passion in my life.

18 Q All right. We talked about, to some
19 extent, what you would like out of this lawsuit;
20 right?

21 A Briefly.

22 Q One was that the area be cleaned up;
23 correct?

24 A Correct.

25 Q Are you seeking any remediation of your

1 property?

2 A Yes.

3 Q What would you like to be done?

4 A That's a difficult question to answer.

5 I've suffered diminished property value. My
6 house was been listed on the market. I've been
7 unable to sell it, even with the reduced price.

8 No one drives past the site to look at the
9 property, and the listing of my home, not one
10 call, not one looker whatsoever. No one will
11 come past the site to look at property.

12 There's no hardship situations
13 involved in this by TVA, no explanations to tell
14 us why they bought properties and where. So if
15 something happens to my female domestic partner
16 and I can't afford to stay in that home, there's
17 no way that I can get out of that house.

18 Q It sounds like you'd like your house to be
19 purchased by TVA?

20 MR. BRANDES: Objection.

21 Go ahead.

22 THE WITNESS: I'm not sure that's
23 what I want. I want -- I will not know until I
24 see what's being done for the community cleanup,
25 until I find out if I get the value, if I find

1 out that there's some compensation made to allow
2 me to get out of it.

3 We have requested through TVA that
4 they let us go out and hire two independent
5 appraisers, list the house, and let us do a fire
6 sale and reduce the house drastically and they
7 pick up that portion, not the whole house, just
8 pick up that portion to allow people such as a
9 neighbor whose wife died so he could get out of
10 there.

11 We've done everything in our power to
12 request some sort of working relationship to
13 assist us with what's going on in our community.
14 And I say that when I -- and I'm going to
15 expound on this because everybody has received
16 funds from TVA: bass fishermen, birdhouses, you
17 name it, 43 million to the county attorneys. We
18 live in the valley of the spill daily. We are
19 not even communicated with. Nothing has been
20 done to assist us to have a better way of life
21 through these last 20 months.

22 BY MR. SHERK:

23 Q When you think of remediation, are you
24 thinking of this kind of financial assistance to
25 be relocated, to be able to sell your house?

1 MR. BRANDES: Objection.

2 Go ahead.

3 THE WITNESS: Well, it would be a
4 portion of it, yes.

5 BY MR. SHERK:

6 Q What's the other portion?

7 A Either that or give us back quality of
8 life. Let us enjoy what we moved here for. Let
9 me use the water. Let me not walk into my house
10 with fly ash all over myself. Let me not have
11 fly ash in my yard. Let me not have it in the
12 air. Give us back which you took from us by
13 poor management.

14 Q Now, you've seen the -- the efforts
15 underway to clean up the spill; correct?

16 A Oh, yes.

17 Q On a daily basis?

18 A Yes.

19 Q What would you have them do differently?

20 A One, communication is terrible; two, the
21 errors they've made so far are atrocious, such
22 as the way they managed the railroad crossings,
23 such as we had to request and almost demand we
24 get a bridge so we don't get hassled more, such
25 as we know the next four to ten years are going

1 to be miserable because they're going to put
2 concrete factory on-site, they're going to be
3 hauling gravel in, such as they couldn't even
4 run a truck wash, such as they can't even run
5 digital sign, such as they can't even run a
6 voicemail system in the year 2008/09. It just
7 goes on and on.

8 Ask TVA how they can convince me,
9 when they haven't been able to do the little
10 things, how I can have trust that they can do
11 the big things.

12 Q And again, the issues that you've reported
13 that you're having are -- are with the -- it
14 sounds like with the cleanup operations?

15 MR. BRANDES: Objection.

16 Go ahead.

17 THE WITNESS: Yes.

18 BY MR. SHERK:

19 Q Now, you are not making a personal injury
20 claim or health claim; correct?

21 A No.

22 Q Would you advocate shutting TVA down?

23 A No. We need all kinds of resources for
24 the future, for electricity and things in our
25 country. I'm suggesting we all work together to

1 have a greener environment and use everything
2 available, but use it properly.

3 Q You have lived at your current address for
4 how long?

5 A Over five years.

6 Q So you moved in in 2000 --

7 A '5.

8 Q '5, okay.

9 Your property has only been used for
10 residential purposes?

11 A Yes.

12 Q During the time that you've lived at your
13 house, has it been a situation that only you and
14 Phyllis Burns have lived there?

15 A Yes.

16 Q No one else has lived there with you?

17 A No.

18 Q Do you have pets?

19 A No.

20 Q Have you ever rented or leased that home
21 to anyone else?

22 A No.

23 Q Okay. You moved here from Ohio; is that
24 right?

25 A Yes.

1 Q How long were you -- how long did you live
2 in Ohio?

3 A '70s, I think, so I was probably in Ohio
4 30 years or so. I'd have to look up the dates.
5 I don't know exactly.

6 Q Okay. You've mentioned just a little bit
7 earlier, Mr. Simon, that you did some research
8 before you purchased the property here; correct?

9 A Yes.

10 Q What sorts of things were you looking for
11 when you did your research?

12 A Number one was water. I'm a barefoot
13 water skier. I need no boat traffic, no docks,
14 no sea walls, no houses. I want virgin water
15 that's like a mirror. And that's what I found
16 by flying over it by airplane.

17 Q What other criteria did you have?

18 A Cost of living. Quiet atmosphere. Green
19 space. Controlled neighborhood.

20 Q Does that mean gated?

21 A Not gated, but an association that has
22 rules and regulations.

23 Q Did proximity of your family have anything
24 to do with it?

25 A No.

1 Q You didn't plan to work once you moved
2 here to Harriman, Tennessee?

3 A Not if I didn't have to.

4 Q Okay. When you bought the property in
5 2005, were you --

6 A I think I bought the property in 2003 or
7 '04.

8 Q When you purchased the property in 2003 or
9 '04, were you aware of its proximity to the TVA
10 facility?

11 A I drove by the facility. That's all I
12 knew about it.

13 Q When you first got the property, it was
14 just a piece of land; correct?

15 A Correct.

16 Q No house on it?

17 A Correct.

18 Q When you bought it back in 2003 or '04,
19 how long would it take you to drive from your
20 property to past the TVA facility?

21 A Well, it's about 4 miles to State
22 Route 70, 35-mile-an-hour speed limit, so I
23 would imagine approximately seven, eight
24 minutes, maybe.

25 Q How far -- by the crow flies, how far is

1 it from your house to the TVA facility?

2 A Probably two miles.

3 Q Okay. Can you see the facility from your
4 house?

5 A Not sure.

6 Q Can you see the two very tall stacks of
7 the facility?

8 A If I'm in the boat at the dock, I think I
9 can, if I remember right. I'm not sure.

10 Q How long does it take you by boat to get
11 from your dock to the TVA facility?

12 A I'm at mile marker 4, the facility is
13 basically at mile marker 2, so it depends on the
14 speed of the boat. So it's a reasonably short
15 amount of time.

16 Q It's not too far by boat?

17 A Two miles.

18 Q And depending upon if there's a no-wake
19 zone or something like that, it could take a
20 various amount of time?

21 A Yes.

22 Q What's the shortest amount of time by
23 boat?

24 A 44 miles an hour barefooting, 2 miles, 2
25 or 3 minutes.

1 (Marked Exhibit 3.)

2 BY MR. SHERK:

3 Q Mr. Simon, you've been handed deposition
4 Exhibit No. 3. I'll represent to you that
5 that's a map of the TVA facility and surrounding
6 area.

7 Do you recognize that?

8 A Yes.

9 Q Is that a fair and accurate depiction of
10 the -- of the, you know, geographical
11 circumstances surrounding the Kingston facility?

12 A Yes.

13 Q Can you locate your property where your
14 house is on Exhibit No. 3?

15 A Yes.

16 Q I'll give you a --

17 A It's one of these in here. This is Swan
18 Harbor, so I'm gathering we are this one right
19 there. I believe those are the two Emory coves.
20 And this is our second dock at the Swan Harbor
21 Association, I believe. We're across from
22 Sportsman Club Cove.

23 Q Could you mark -- just put "Don Simon's
24 house."

25 Okay. What mile marker are you on?

1 A 4.

2 (Marked Exhibit 4.)

3 BY MR. SHERK:

4 Q Mr. Simon, you've been handed deposition
5 Exhibit No. 4.

6 A Uh-huh.

7 Q And I'll represent to you that this is
8 another slightly more detailed map of the area
9 surrounding your home.

10 Do you recognize that?

11 A Yep. Yes.

12 Q And is this a fair and accurate map in
13 your estimation?

14 A Yes.

15 Q On this map, could you locate your house
16 and mark it.

17 A Yes.

18 MR. BRANDES: I'm sorry, Counselor,
19 I didn't hear you. "Your house and" --

20 MR. SHERK: And place a mark by it.

21 MR. BRANDES: Sorry.

22 THE WITNESS: Yes.

23 BY MR. SHERK:

24 Q Okay. If you could go ahead and do that.

25 A Got it.

1 Q What is the name of your neighborhood or
2 subdivision again?

3 A Swan Harbor.

4 Q How would you characterize it in terms of
5 the type of neighborhood it is?

6 A Upper middle class neighborhood, nice
7 homes.

8 Q Is it wooded?

9 A Yes.

10 Q More rural than not?

11 A Yes.

12 Q How close to your neighbors?

13 A I have one house that's one lot away from
14 me, which would probably be 100 feet or so, at
15 least.

16 Q Are you on a corner or the middle of the
17 block?

18 A I'm in the -- in a middle lot.

19 Q What's the size of your lot?

20 A Point something acreage. I don't -- you
21 know, without looking at the plat plan, I can't
22 tell, you know.

23 Q Less than an acre?

24 A Yes, less than a half acre.

25 Q Okay. How close is your house to the

1 street?

2 A 20 feet, I think.

3 Q And I believe you said you have -- you're
4 on the river?

5 A Yes. We're on a cove on the Emory River.

6 Q Okay. When was the house built?

7 A 2005.

8 Q Who was your contractor?

9 A Bob Posey, Posey Construction.

10 Q What type of construction is or materials
11 is the house built of?

12 A It's a stick built stucco and stone.

13 Q How many floors?

14 A Two.

15 Q Number of square feet?

16 A 3,000, I think, something. I don't know.
17 I don't remember anymore. I could look it up,
18 but --

19 Q That's fine. Number of bedrooms and
20 bathrooms?

21 A Three bedrooms, study, two and a half
22 bath.

23 Q Okay. Do you have a pool?

24 A No.

25 Q Do you have a basement?

1 A I have a finished lower level with an
2 unfinished portion.

3 Q Any foundation trouble?

4 A No. I spent many extra dollars, because
5 that's sandy clay, to have soil tests done,
6 wider footers, poured walls, and rods in the
7 wall.

8 Q So it's a well-fortified foundation?

9 A Yes.

10 Q Any flooding in the basement area?

11 A No.

12 Q House ever tested for Radon?

13 DEPOSITION OFFICER: I'm sorry?

14 BY MR. SHERK:

15 Q Has your house ever been tested for Radon?

16 A Yes.

17 Q What were the results?

18 A None. We had a home inspection before we
19 moved in done by Bentley Home Inspection
20 Company.

21 Q Do you have a porch, a patio or a deck on
22 your house?

23 A Yes. I have a screened-in porch, upper
24 level, and we have a patio, lower level, both
25 waterfront.

1 Q Do you have a dock on your property?

2 A We have a community dock at my property
3 because I have a five-foot easement given to the
4 association to access to the dock as part of my
5 property.

6 Q And you mentioned earlier a second dock;
7 is that right?

8 A Yes. We have a second dock in our
9 development.

10 Q Where is that?

11 A That's at the end of the cul-de-sac, would
12 be southeast of my property, about five or six
13 lots down.

14 Q And you have access to that?

15 A Yes.

16 Q And do you pay for both your community
17 dock and second dock?

18 A Our association fees -- our association
19 fees don't cover the dock. If you use the
20 dock -- the second dock is really not dockable
21 for larger boats. We're paying an \$85 a month
22 fee to dock our boats there. We don't have
23 water year-round, so basically we dock from
24 April through November.

25 Q And you dock at the community dock that's

1 close to your house?

2 A Yes. I have a lift in the dock there.

3 Q Have you ever tried to get your own dock?

4 A No.

5 Q Do you have any desire for your own dock?

6 A Yes. It would enhance my property value
7 if I had my own dock. But do I wish to own one
8 on my own, for the maintenance end of it, for
9 that aspect, no.

10 Q So you've never made any -- any overtures
11 or any attempts to --

12 A No.

13 Q -- get your own dock?

14 When you were building your house
15 and you were concerned about the soil and the
16 foundation, what did you have the soil tested
17 for?

18 A For density.

19 Q Okay. Do you know what sorts of tests
20 were done?

21 A Just drilled holes and an analyzation by a
22 soil engineer.

23 Q Any idea what constituents in particular
24 were tested for during that soil testing?

25 A No. I left that up to the expert. All I

1 wanted to know, was it a solid foundation. I
2 also applied for an easement to move the house
3 10 feet closer to the street, which I was
4 granted due to the soil.

5 Q Do you have a copy of whatever report was
6 prepared in connection with the --

7 A From the soil engineer?

8 Q Yes.

9 A No.

10 Q Was one prepared?

11 A You'd have to ask my builder.

12 Q What types of windows do you have in your
13 house?

14 A Glass windows.

15 Q And they're relatively new?

16 A Same age as the house.

17 Q Did they seal well?

18 A Yes.

19 Q Any cracks or gaps in the windows?

20 A No.

21 Q Do you have central air conditioning?

22 A Yes.

23 Q You've had that since the house was built?

24 A Yes.

25 Q Any window air conditioning units?

1 A No.

2 Q You live in your house throughout the
3 summer months?

4 A Yes.

5 Q And during the winter as well?

6 A Yes.

7 Q Punctuated by occasional trips out of
8 town?

9 A Yes.

10 Q Those occurring on, probably, a monthly
11 basis?

12 A Depends on the occasion.

13 Q Now, do you have carpet or hardwood
14 floors?

15 A Carpet and tile.

16 Q What is your source of water?

17 A Harriman Utility Board.

18 Q So no well water?

19 A No.

20 Q Do you have any home improvement projects
21 planned for your house?

22 A Would I like to do some? I can't plan any
23 because the value of the property is zero. I
24 wouldn't want to put more money into a house
25 that has no value.

1 Q Since building the house and having it
2 completed, have you done any home improvement
3 projects?

4 A Just routine maintenance and, you know,
5 landscaping, what have you.

6 Q Do you run any type of business out of
7 your home?

8 A No.

9 Q Has your -- has your house ever been damp
10 or moldy since you had it built?

11 A No.

12 MR. BRANDES: Objection.

13 Go ahead.

14 BY MR. SHERK:

15 Q Have you ever used any portion of your
16 property for a garden or to raise animals, that
17 kind of thing?

18 A No.

19 Q Have you ever had pets on the property?

20 A No.

21 Q Prior to moving to this area in
22 Tennessee -- in 2004, you said?

23 A I believe.

24 Q -- you lived the bulk of your life in
25 Ohio; is that right?

1 A I've lived in quite a few states, but I
2 would imagine Minnesota, Iowa, or Ohio, they're
3 probably all fairly similar time frames.

4 Q Have you ever lived in any rural farming
5 area?

6 A Yes.

7 Q When was that?

8 A I was in the service in Ft. Leonard Wood,
9 Missouri. I was in the service in Fort Polk,
10 Louisiana.

11 Q In either of those locations did you work
12 on a farm?

13 A No. You mean for an occupation?

14 Q Yes.

15 A No.

16 Q If you were to describe for me, you know,
17 how you spend your time since being retired and
18 moving here to Tennessee on a daily or weekly
19 basis, what would you say?

20 MR. BRANDES: Objection.

21 Can you clarify? You mean before or
22 after the spill?

23 BY MR. SHERK:

24 Q Starting with when you first moved here.

25 A Well, when we first moved here, we were

1 building a house. So the time was spent coming
2 to the location, barefoot water skiing, working
3 at the property, and going back to temporary
4 housing in Oak Ridge until the house was
5 completed.

6 Q Were your weekdays any different than your
7 weekends during that period of time?

8 A Not during the building, no.

9 Q Was Phyllis Burns with you at that time?

10 A Yes.

11 Q Did she move with you from Ohio to
12 Tennessee?

13 A Yes.

14 Q After the house was built and before the
15 spill, how did you spend your time?

16 A Do you want it by day? Get up in the
17 morning 6:30, open the computer, read the
18 e-mails, delete them, go to trash, delete them,
19 barefoot water ski, maybe go for a ride on the
20 Harley, maybe play golf, maybe go to Bunch
21 Marine, maybe go to the health club in
22 Knoxville, maybe just go to the bank, the post
23 office. We haul our own garbage, probably haul
24 garbage at least once a week, minimum.

25 Just generally a good life of

1 retirement. Go to visit people and places.

2 Q Do you have any particular hobbies?

3 A Many.

4 Q Waterskiing, for sure. Also it sounds

5 like golf and working out.

6 A Racquetball, golf.

7 Q How about woodworking?

8 A No.

9 Q Painting?

10 A No.

11 Q Reading?

12 A I read, yeah. Yes.

13 Q Do you do your own yard work?

14 A Yes.

15 Q Have you done that since you moved here?

16 A Yes.

17 Q You cut the grass?

18 A Yes.

19 Q Push mower, riding mower?

20 A Both.

21 Q You have a riding mower and push mower?

22 A We're on a hill.

23 Q And you personally mow the lawn?

24 A Yes.

25 Q How long does it take you?

1 A Hour.

2 Q Okay. I think you mentioned before that

3 you had a well-treed lot; is that right?

4 A A what?

5 Q Well-treed lot?

6 A Yes.

7 Q A densely-treed lot?

8 A Not densely, but we have trees.

9 Q Do you take care of those?

10 A What shrubbery and landscaping we did, we

11 take care of. The trees that were natural to

12 the area that had fallen that I couldn't get TVA

13 to help us with that have fallen, I've had to

14 take care of, yes.

15 Q And besides mowing, do you deal with

16 bushes and that kind of thing on your property?

17 A Phyllis takes care of all the shrubbery.

18 Q Okay. And flowers as well?

19 A Yes, she takes care of that.

20 Q Do you have a garden?

21 A No.

22 Q Prior to the spill, did you do a lot of

23 entertaining?

24 A Not a lot.

25 Q Who would you socialize with?

1 A Friends, neighbors.

2 Q Okay. When you had people over to your

3 house, where would you go?

4 A To the dock, to the boat, to the

5 screened-in porch, to the patio.

6 Q Do you have barbecues?

7 A Yes.

8 Q Spend a lot of time on the deck?

9 A Some time. I wouldn't say a lot.

10 Q In the hot summer months, more time inside

11 than not?

12 A Not these days. Because of the spill, we

13 haven't done that much outside entertaining.

14 Q And again, I'm -- I'm thinking the period

15 of time from when you moved in until the spill.

16 A Normal. Whatever normal people do.

17 Q Do you walk as a form of exercise?

18 A Well, I had three back surgeries a couple

19 years ago, so yeah, I walked the neighborhood

20 for a while.

21 Q Can you still ski after your back

22 surgeries?

23 A Yes. But I walk -- I go to the health

24 club if I'm going to walk and do stuff, as well

25 as -- well, I'm not doing anything in the

1 neighborhood now.

2 Q Before the spill, what activities would
3 you do on the river?

4 A Barefoot water ski, grandchildren, if they
5 came, would wade in the shoreline area there
6 where it's sandy.

7 Q How about fishing?

8 A I don't.

9 Q Okay. Let's talk about the impact of the
10 spill on the way that you use your property.

11 How has it affected the way you
12 spend your time there during the day?

13 A I try and limit my outside activity.

14 Q How so?

15 A We just don't spend time on the patio,
16 either upper or lower, as we used to. I ski,
17 and I come in the house, and that's it.

18 Q Still ski on the river?

19 A Yes.

20 Q How often do you ski?

21 A Quite often. Today -- whoops, I didn't
22 ski today. I'm at 77 or 8 days this year so
23 far. I'm behind schedule.

24 Q Is this part of a regular training
25 regimen?

1 A No different than someone who goes
2 jogging. Yes, it's training and pleasure.
3 Q What kind of boat do you have?
4 A Barefoot Sanger.
5 Q Have you had that the entire time that
6 you've lived here?
7 A Yes.
8 Q Is it a powerful boat?
9 A Is it a what?
10 Q Powerful?
11 A It's a competition ski boat.
12 Q Okay. So you gave me a couple, you know,
13 items in terms of post spill activities. Have
14 you continued to mow your lawn?
15 A Yes.
16 Q Have you continued to work on the trees to
17 the extent that they need to be worked on?
18 A Only when I have to.
19 Q Has Ms. Burns continued to do the
20 shrubbery and the flowers?
21 A Yes.
22 Q Do you guys use fertilizers on the lawn
23 and for shrubbery and flowers?
24 A We have a service.
25 Q You touched upon entertaining at your

1 house. Since the spill, have you continued to
2 entertain?

3 A Some.

4 Q And would you entertain on the deck and
5 the patio?

6 A Some.

7 Q Is your lot a manicured lot?

8 A Yes.

9 Q It looks nice from the front yard and the
10 water?

11 A I live with a green thumb, clean person,
12 yes.

13 Q All right. You indicated that you still
14 water ski with some frequency; correct?

15 A Yes.

16 Q Okay. You don't really fish, not before
17 or after?

18 A Not really. It's not appetizing to fish
19 when you see dead ones at the shore.

20 Q Does anybody else use your property for
21 recreation purposes?

22 A The people who come ski with me?

23 Q Uh-huh.

24 A Yes. Friends come and ski with me.

25 Q Do they come all the time?

1 A What do you mean by "all the time"?

2 Q Do you ski five days a week?

3 A I'd ski seven, if I could. If I have the
4 drivers, drivers who drive me, but I have two or
5 three individuals who, you know, come and ski
6 occasionally, yes.

7 Q How often will you have friends that ski
8 with you?

9 A Probably once a week right now. Twice a
10 week, maybe. There's no routine to it. Depends
11 on schedules.

12 Q Is there a driver that you have every
13 time?

14 A I have three.

15 Q Ms. Burns doesn't drive the boat?

16 A Occasionally.

17 Q That's not the preference?

18 A No, she'd be fine. She just chooses not
19 to these days. I wore her out.

20 Q Okay. Are you a hunter? Do you do any
21 hunting?

22 A No.

23 Q Trapping?

24 A No.

25 Q Hiking?

1 A No.

2 MR. SHERK: Let's go off the record
3 for a second.

4 THE VIDEOGRAPHER: Going off the
5 record. Time is 11:32.

6 (Recess.)

7 BY MR. SHERK:

8 Q Mr. Simon, we took another quick break and
9 we're back on the record. We were talking about
10 the activities that you have done and do around
11 your residence.

12 And we were talking about water
13 skiing.

14 And I take it that most of your
15 skiing occurs in the early morning?

16 A Majority if I can, yes.

17 Q That's because the water's smoother?

18 A That's when I can get drivers and lack of
19 boat traffic.

20 Q What -- what is it about the quality of
21 the water on the Emory that you prefer?

22 A The glass.

23 Q It's not a wavy surface then?

24 A True. No sea walls, no docks.

25 Q No jetskiers?

1 A It's wind protected. That's probably the
2 best thing I should tell you. It sets down, and
3 it's tree-lined.

4 Q And there's plenty -- unlike a small lake,
5 there's plenty of area to traverse on your ski?

6 A 10 miles. 10 miles going north. Could go
7 south also.

8 Q Could go south from your house as well?

9 A Yes.

10 (Marked Exhibit 5.)

11 BY MR. SHERK:

12 Q Mr. Simon, you've been handed Deposition
13 Exhibit No. 5, and I'll represent to you that
14 that's a aerial photograph taken of the area
15 surrounding your house.

16 Does that look familiar to you?

17 A Yes.

18 Q Is that a fair and accurate depiction of
19 your house and the area surrounding it?

20 A Yes.

21 Q Can you mark your house on -- where your
22 house is on that exhibit with the Sharpie that
23 you've got there. That's the one.

24 A Okay. Where's our dock? I should be
25 right here.

1 Q Okay. That's your home there?

2 A Uh-huh.

3 Q On Osprey Way?

4 A Yes.

5 Q And that's the communal dock?

6 A Right there.

7 Q Okay. Right. Where is the second dock,

8 if it's located on this?

9 A The second dock is right here. See that

10 little white spot, right there.

11 Q Oh, it's around the --

12 A Go around the Osprey Way, and it's back in

13 that other cove.

14 Q Is that the dock that can only be used

15 part of the year, or is that true with both of

16 them?

17 A Both docks.

18 Q So the water recedes in the wintertime; is

19 that correct?

20 A Yes.

21 Q When is your boat in again?

22 A If we -- if we -- well, I like to put it

23 in April and take it out late November, if

24 possible.

25 Q Could it be in the water all year if it

1 had to be?

2 A Yes. It could be in the water. It would
3 not be usable because I couldn't get out of the
4 cove. But I have water in that cove year-round,
5 just not enough to get out to the channel.

6 (Marked Exhibit 6.)

7 BY MR. SHERK:

8 Q Mr. Simon, you've been handed Deposition
9 Exhibit No. 6. I'll represent to you that that
10 is a photograph that was taken of what appears
11 to be your backyard.

12 Does that look familiar to you?

13 A Correct.

14 Q Is that a fair and accurate depiction of
15 your backyard?

16 A Yes.

17 MR. BRANDES: Objection.

18 Go ahead.

19 BY MR. SHERK:

20 Q We can see in this photograph the trees
21 that are standing in your backyard; correct?

22 A Yes.

23 Q And the lower level patio is on the
24 left-hand side of your house?

25 A Yes.

1 Q Where's the upper deck?

2 A Right there.

3 Q It's above the lower patio?

4 A Yes.

5 Q Hidden by the trees, it looks like there?

6 A Yes.

7 Q Okay. Great.

8 (Marked Exhibit 7.)

9 BY MR. SHERK:

10 Q You have now been handed Deposition No. 7.

11 Can you tell me what that is, sir?

12 A Shoreline in the backyard in the back of
13 my house.

14 Q This is a slightly different view than the
15 one we just looked at, isn't it?

16 A Yes.

17 Q A little bit farther away. Again, showing
18 the shoreline and showing your house; right?

19 A Yes.

20 Q Before the spill, Mr. Simon, would you
21 get -- would river scum come up on the edge of
22 the land that's shown in Exhibit No. 7?

23 MR. BRANDES: Objection.

24 Go ahead.

25 THE WITNESS: No.

1 BY MR. SHERK:

2 Q No river scum?

3 A Not the type that I experienced when I
4 invited TDEC to look at it.

5 Q Okay. I'm talking about pre-spill.

6 A I'm talking about oil from the dredges.
7 I'm talking about a slimy residue or substance
8 that built up further east of this picture where
9 is sort of our beach area that had a slime that
10 built up there. I had never seen that before
11 the spill.

12 Q No. I'm talking about before -- in the
13 time before the spill.

14 A Did I have that build-up that I told you
15 about now, no. Do I have normal twigs, debris,
16 or odds and ends that would come in, yes. But
17 did I have any kind of scum in that area, no.

18 Q Okay. So your testimony is before the
19 spill, you wouldn't have foam or any kind of
20 river scum that would accumulate every now and
21 then?

22 MR. BRANDES: Objection.

23 Go ahead.

24 THE WITNESS: By my unprofessional
25 eye, I didn't have anything that looked like a

1 substance that was unusual to nature.

2 BY MR. SHERK:

3 Q Right, but would you have substances that
4 would be in accordance with what you view as
5 natural?

6 A Not really. This is very clear water.
7 You could see the sandy beach. I really didn't
8 see residue build-ups in that area.

9 Q Okay. Let's talk then post spill. Again,
10 looking at Exhibit No. -- is that 7?

11 A 7.

12 Q You discussed some residue that was not in
13 front of your house but a little down the -- in
14 that area that's to the --

15 A The east, southeast.

16 Q Okay. And what is it?

17 A It's a slime. It was a slime. It's a
18 slippery slime. As a matter of fact, I fell
19 several times walking in that area.

20 Q What color is that?

21 A Grayish. I furnished pictures to that --
22 the stuff that I gave my counsel. TDEC
23 furnished pictures as well.

24 Q You called TDEC, and what happened?

25 A They came out and took a sample of it and

1 went back to the site area.

2 Q When was that?

3 A I don't know. You'd have to look at the
4 documentation I gave.

5 Q So it -- did they --

6 A Spring.

7 Q Spring this year, 2010?

8 A Yeah. I think late spring.

9 Q Did they come in and take a sample of
10 soil?

11 A They took a sample of the sand and slime
12 in that area I spoke about right here.

13 Q Okay. And that's the sandy --

14 A That's where you could really see the
15 residue. What you're looking at right now, you
16 don't see any build-up because that's running up
17 to a rock ledge right there. So that -- there
18 wouldn't be any build-up there because that's
19 basically a natural pool.

20 What you'd have to see is where
21 the -- the water has receded from the shoreline.
22 That's the only place you could ever see any
23 residue of any kind on any body of water.

24 Q And this photograph was taken in August of
25 this year, and it's a high water --

1 A Yes, it's 740.2 yesterday morning. So
2 that's normal pool. That's actually above
3 normal pool for most summers.

4 Q What was it?

5 A 740.2.

6 Q Let's go back a couple photographs to this
7 one. That would be No. 5. If you look at your
8 house -- that may be too small -- can you point
9 out where the -- where the little beach is that
10 had the --

11 A You can't from that picture, no.

12 Q It's too small? Okay.

13 A It's right next to the walkway going out
14 to the dock.

15 Q Okay. Is that on -- okay. All right.

16 The dock, is that adjacent to a
17 neighbor's property, in front of a neighbor's
18 property or your property?

19 MR. BRANDES: Objection.

20 Which dock are you speaking of?

21 BY MR. SHERK:

22 Q The community dock.

23 A Yes, it would -- it would -- two or three
24 of the slip areas would be on the empty lot to
25 the southeast of me, yes.

1 Q And do you have an easement walkway to
2 the --

3 A We both do.

4 Q -- dock?

5 A Both that lot and my lot. We get 5 feet
6 each from the 10-foot concrete easement path to
7 the water.

8 Q All right. Okay. What contour line is
9 your property line?

10 A What do you mean by "what contour"?

11 Q Is it the 750 contour?

12 A Yes, 750.

13 Q Okay. So your property, if you look at
14 Exhibit 7, doesn't come all the way down to the
15 water?

16 A No. If you look at -- is that Exhibit 7?

17 Q Yeah.

18 A Excuse me. Here's 6. On 6, that would be
19 the 750 mark there, and the 750 mark would be
20 over in here somewhere on that side.

21 So in other words, that's a diagonal
22 that goes over. That -- that path goes like
23 this. The lot is deeper here than it is here.

24 Q Okay.

25 A According to what TVA tells me, I've flood

1 at 755 point something, that they would pay me
2 if they flooded me when they impeded the river.

3 Q Uh-huh.

4 A And according to what the TVA -- TDEC or
5 TVA person came out to me and explained to me,
6 it's an arm's length marking for 750. They
7 can't tell me if the tree was this big around or
8 this big around when they marked it, so no
9 matter what you call, the 750 is somewhat
10 approximate, so they tell me.

11 Q Okay. So if it went to 755, you said?

12 A They said they would pay if they flooded
13 me.

14 Q Has that ever happened?

15 A No, but it's been past the 750.

16 Q When was that?

17 A This spring.

18 Q In what month?

19 A Whenever we had the two high watermarks.
20 Exact dates -- I mean, we could look it up, but
21 I just don't remember them.

22 Q Okay.

23 A It's been higher than that when I first
24 purchased the lot, and I don't know if it was
25 four or five, somewhere in there. It was up in

1 that area.

2 Q Never got into your house?

3 A No.

4 Q And other than a couple instances, at
5 least in terms of what your understanding is,
6 it's never gotten above the 750 contour?

7 A It's gotten above it, yeah.

8 Q On a couple of occasions?

9 A Yes. That I'm aware of.

10 Q Why don't you go ahead and draw your --
11 draw your approximate property line on
12 Exhibit 6.

13 A Probably right there, and the best I can
14 do for you is right here. So I would say that
15 thing kind of comes -- in this picture, that's
16 sort of how it comes, like that. But I -- I
17 can't -- you know, it's probably like that, I
18 guess.

19 Q Okay. All right. Okay. If you were to
20 do -- can you make that similar line -- do you
21 see the same landmarks on Exhibit 7? It's
22 really the --

23 A It's really not distinguishable.

24 Q Okay.

25 A I -- I really would be guessing trying to

1 do it off of this one.

2 Q Okay. That's fine. That's fine.

3 A No, can't do it.

4 Q Okay. Other than the -- the scum that was
5 on the area by the sandy beach, have you called
6 TDEC or anyone else to do a soil sample on your
7 property?

8 A No. I only called TDEC because the slime
9 was so thick and so slippery, and was -- I had
10 never seen it before.

11 Q Okay. Do you keep track of the elevations
12 of the river?

13 A Yes.

14 Q And is that a part of your water skiing
15 analysis that you do?

16 A I think it's just a quirk.

17 Q It's one of your -- you like to keep
18 things neat; correct?

19 A I -- I really sort of -- I -- I don't
20 know. I guess it's just a quirk. No way to
21 explain it.

22 Q If we were going to look up high
23 watermarks, where would we go to find that
24 information out?

25 A It's in the news -- Knoxville newspaper

1 every day, number one. And number two, if
2 you're a computer person, you can putz around on
3 the TVA website and negotiate a bunch of
4 clicking and get different reservoir
5 information.

6 Q Okay. All right.

7 Now, do the water levels that you
8 would see on the TVA website, are they
9 approximate? Are they the same across
10 everybody's property that has waterfront
11 property on the river?

12 A I don't really completely understand.
13 It's -- my understanding is it's 740.256,
14 whatever it is, at the Watts Bar Dam, and I'm
15 gathering that means 740 above sea level. I
16 don't know that for sure. That's -- I really
17 haven't done a study to find out how it all
18 works.

19 Q Did you take any photographs on the high
20 water days and memorialize that in any way,
21 shape, or form?

22 A I might have taken a few, I don't know.
23 Do I have them, I don't know. Maybe. I don't
24 know.

25 Q That would have been once years ago?

1 A No, it would have been this spring I might
2 have taken one -- yes, I did take some this
3 spring. I'm sorry.

4 Q And I think you testified that a few years
5 before that happened as well?

6 A When we purchased the lot, yes, it was up.

7 Q Oh, before even a house was on it?

8 A Yes.

9 Q And then once this spring?

10 A Yes. I had a concern because of flooding.
11 I mean, if you're going to buy on the water --
12 I've lived on the water before, so I wanted to
13 know what the effects would be of different
14 water levels.

15 Then when I couldn't purchase flood
16 insurance at that time, I wanted to know why I
17 couldn't purchase it and who defines why I
18 couldn't. So, you know, intelligence tells me I
19 should study the lay of the land.

20 MR. SHERK: If -- if you locate
21 those photographs of the high watermark,
22 Counsel, I'd appreciate getting a copy of those.

23 THE WITNESS: Are you going to
24 remember that?

25 MR. SHERK: He's a smart guy. He's

1 got a computer-like brain, never misses a trick.

2 Q The slime that had developed along the --
3 the sandy beach area, was that the first time it
4 had gotten to the level that you felt compelled
5 to call TDEC --

6 A Yes.

7 Q -- this spring?

8 And what did they do, again? Did
9 they come and clean it up?

10 A I think her name was Barb came up -- no,
11 no, no. They didn't clean it up. Barb came out
12 and took something. I went and got her a
13 container so she could take a sample. She came
14 and took a sample, took it back to the war zone,
15 command central, and I called her shortly after
16 that because I have a concern with silting as
17 well in that cove.

18 And she told me they've already
19 tested it, and they found particles of ash in
20 it. And when I called Steve McGraphen from TVA
21 shortly after that, he had already been notified
22 by her that she had been there and taken a
23 sample and found particles of ash in that
24 sample.

25 And I requested, which is probably

1 in some of this interrogation stuff, whatever it
2 is, the results of that, and they said they sent
3 it to my attorney. And I told them, I don't
4 care what you send to my attorney, I want a copy
5 as well. So I asked for a copy of it, and she
6 had a picture, and she had some write-up stuff
7 on it.

8 And I might also add that
9 somebody -- the films that have been running
10 around in this area that was funded by Bobby
11 Kennedy came in and I understand was at my dock
12 and also took pictures of it. But I was not
13 there. I don't know how they did it or what
14 they did.

15 (Marked Exhibit 8.)

16 BY MR. SHERK:

17 Q Mr. Simon, let me hand you what's been
18 marked Exhibit 8, and I'll represent to you that
19 this is a document that we got from you. And I
20 think this pertains to the river slime that
21 we've been talking about.

22 A Yes, but the picture is missing.

23 Q We don't have a picture. Or if we had a
24 picture, I don't know where it is.

25 MR. BRANDES: The picture was

1 produced.

2 MR. SHERK: Was it?

3 MR. BRANDES: Yep. The picture taken
4 by -- regarding the TDEC sampling?

5 MR. SHERK: Uh-huh.

6 MR. BRANDES: Yeah, that was
7 produced.

8 THE WITNESS: So that was spring
9 3/16, I'm gathering?

10 MR. BRANDES: Uh-huh.

11 THE WITNESS: Yes, this is the
12 document.

13 BY MR. SHERK:

14 Q Okay. So this was material taken from the
15 sandy beach area collected by Barbara, you said?

16 A Yes.

17 Q And that presumably would be Barbara
18 Scott --

19 A Yes.

20 Q -- who's on this e-mail.

21 And is this -- this is an e-mail
22 that you received?

23 A This is what I requested from her because
24 I did not get it, and she said she sent it to
25 the counsel -- my counsel. So then I requested

1 it -- I think there was something attached to it
2 that at one of the CAG meetings she produced
3 this with the picture attached to it, per my
4 request, and even put a Post-It note on it
5 saying per my request.

6 Q Okay. If we look at this e-mail, it says
7 that a Reese's cup sample was taken. That
8 means, I guess, a cup essentially the size of a
9 Reese's Piece or something like that.

10 Is that what it looked like to you?

11 MR. BRANDES: Objection.

12 Go ahead.

13 THE WITNESS: I don't know what that
14 Reese's cup means. I mean, I had to furnish her
15 something to take the sample, and I gathered the
16 Reese's cup was to explain the color and texture
17 of it. I don't -- and then the substance of it
18 or density of it. I don't -- I don't know what
19 that's all about. I mean, I just looked at this
20 and that's why I sent it to counsel for, because
21 I don't really understand it.

22 BY MR. SHERK:

23 Q All right. So there are one two, three,
24 four samples that say, "Don Simon Reese's cup";
25 correct?

1 A Yes.

2 Q And it looks like there were four samples
3 taken from the area where the scum was; is that
4 right?

5 MR. BRANDES: Objection.

6 Go ahead.

7 THE WITNESS: I don't think so. I
8 think they only took one cup full of stuff.
9 Well, I know that because I furnished the cup.
10 So I'm assuming these are four different people
11 that tested this or this is a part of their
12 test.

13 BY MR. SHERK:

14 Q And maybe they segmented it into top
15 layer, you know, bottom layer analysis,
16 something like that?

17 A I guess --

18 MR. BRANDES: Objection.

19 Go ahead.

20 THE WITNESS: I don't know.

21 BY MR. SHERK:

22 Q All right. Other than the river scum
23 analysis that's the subject of Exhibit 8, no
24 other testing has gone on on your property of
25 soil or scum or anything like that?

1 A I have a floating water test apparatus
2 away from my dock.

3 Q Out in the middle of the Emory?

4 A With a blinking light all the time. What
5 it does, I don't know. There's people coming to
6 it all the time, and the light blinks all night
7 in your -- in your windows.

8 Q It's a little metal contraption out in
9 the --

10 A It's a floating dock. For a while there
11 was two of them. Now there's one.

12 Q Is this mile marker 4-ish, around there?

13 A Yes.

14 Q So besides the slime test and -- leave out
15 the water monitoring -- no other soil testing
16 has been undertaken on your property?

17 A Not that I'm aware of.

18 Q Okay. We talked -- oh, are we running out
19 of time.

20 This would be a good time to
21 take a quick break. Should we take an
22 abbreviated lunch break?

23 MR. BRANDES: Sure.

24 THE VIDEOGRAPHER: This marks the end
25 of tape No. 2. Going off the record. Time is

1 12:16.

2 (Lunch recess.)

3 THE VIDEOGRAPHER: On the record.

4 This marks the beginning of tape No. 3. Time is
5 1:24.

6 (Marked Exhibit 9.)

7 BY MR. SHERK:

8 Q Mr. Simon, we're back on the record after
9 a lunch break. I realized over lunch I had a
10 photograph. I only have one copy, though,
11 that's been marked as Exhibit No. 9. Let me
12 show you that.

13 Is that a fair and accurate
14 representation of the community dock and some
15 land around that?

16 A Yes.

17 Q Le me ask you this. By the dock there's a
18 sandy little portion of land.

19 Do you see that there?

20 A Yes.

21 Q Could you circle that?

22 A (Witness complies.)

23 Q Is that where the scum was?

24 A The scum would run from here all the way
25 to the other side of the dock, and when the

1 water was lower, even into this area. It was a
2 long stretch because when you get to this area
3 that goes out to the main channel of the river,
4 and it would follow all -- all the way out
5 there. It encompassed the whole area out there.

6 Q Okay, great. Thank you.

7 One thing I forgot to talk to you
8 about this morning when we were going over
9 hobbies and things that you do with your time
10 was motorcycle riding. I noticed that in the
11 interrogatory responses that we got.

12 Are you a motorcycle rider?

13 A Yes. I own a Harley.

14 Q Great. And have you been a motorcycle
15 rider for a long time?

16 A Since about 12 years old.

17 Q Okay. Have you ever competitively ridden
18 bikes?

19 A Yes.

20 Q How long did you do that?

21 A 10, 12 years.

22 Q Was that in the years gone by or --

23 A Yes.

24 Q Quite some time ago, but you continue to
25 ride?

1 A Excuse me?

2 Q You continue to ride?

3 A Yes.

4 Q And have you ridden since you've lived in
5 Tennessee, in your house?

6 A Yes.

7 Q Okay. Great. How often do you ride?

8 MR. BRANDES: Pre-spill or post
9 spill?

10 BY MR. SHERK:

11 Q How about pre-spill.

12 A I probably average about 5,000 miles a
13 year.

14 Q Does that continue to this day?

15 A I might make 5,000 this year.

16 Q Did you make it up to Sturgis?

17 A Not in the last two, three years.

18 Q Oh, but you have been before?

19 A Yes, twice.

20 Q Harkening back to something you mentioned
21 earlier this morning too, you mentioned, you
22 know, getting on the computer, you look at
23 e-mails, clean them up, delete them, that whole
24 process that you go through.

25 Now, have you deleted e-mails

1 pertaining to the Citizens Advisory Group?

2 A I delete all e-mails after they're read
3 and trashed, yes. I have no files, I have no
4 pictures. I read an e-mail, I trash it, I put
5 it in trash, I trash it again. I only print and
6 keep things that I feel I might want to keep
7 track of or that is pertinent and only pieces --
8 parts that I feel I should retain.

9 Q So that would even pertain to e-mails
10 concerning this lawsuit or the Citizens Advisory
11 Group?

12 A Anything.

13 Q All right. Have you -- is it your
14 understanding that you should maintain documents
15 and e-mail communications as they may pertain to
16 this lawsuit?

17 A Counsel advised me to save things I felt
18 that were pertinent, and that's all I've
19 maintained, is what -- something I thought that
20 I might want to retain for my own knowledge or
21 something I might need for the CAG.

22 But I didn't retain anything more
23 than I absolutely had to. It was all printed
24 because I delete everything.

25 (Marked Exhibit 10.)

1 BY MR. SHERK:

2 Q Mr. Simon, I've just given you what has
3 been marked as Exhibit No. 10, and I'll
4 represent to you that that's a document that we
5 got from you entitled "Boundary and Foundation
6 Survey."

7 Do you see that?

8 A Yes, sir.

9 Q Is that your property that is depicted on
10 this survey?

11 A Yes, sir.

12 MR. SHOCKLEY: John, I'm sorry.
13 Could you give me the Bates number on that?

14 MR. SHERK: Yes. It's 000101.

15 MR. BRANDES: Excuse me, Counsel.
16 Are we up to 9 or 10 on these exhibits?

17 MR. SHERK: 10.

18 THE WITNESS: 10.

19 BY MR. SHERK:

20 Q If you look at the top left-hand part of
21 this document, it states,

22 "Property line here --
23 here run along the 750 contour
24 line. A long chord is shown
25 here."

1 Do you see that?

2 A Yes.

3 Q Is that your understanding, as per this
4 map, of what your contour line is in your
5 property?

6 A Is that a -- are we talking this line
7 here, the 137.49?

8 Q No.

9 A Because if we're talking this, that's not
10 the contour that I understand.

11 Q Right. That says if you --

12 A That's the easement for the path down to
13 the water.

14 Q Yeah. This says the 137.49 says tie line,
15 not the boundary.

16 Do you see that on your document?

17 A Oh, over there?

18 Q Yeah.

19 A I don't know what that means. The 750
20 line would have to be in here, not this way.
21 This is the water.

22 Q Yeah. Running like this?

23 A No. Running diagonal, is what I drew --
24 drew on one of the previous maps.

25 Q Okay. That's your understanding of the

1 property line?

2 A That's my understanding of the 750 line
3 and the property line both.

4 Q Okay. All right. If you were to -- to
5 draw on this survey where the community dock is,
6 where would you put that?

7 A Should be right here.

8 Q Okay. Got it. Thank you.

9 Getting back, Mr. Simon, to -- to
10 your e-mails. Does that mean -- when you
11 indicate that you save and print the -- you
12 know, the ones that you deem are appropriate,
13 does that mean that all documents pertaining
14 this matter, e-mails that you would have
15 received, would have been printed?

16 A Probably not. If I didn't feel it was
17 important, I probably deleted it.

18 Q Okay. All right.

19 A There was a lack of computer skills. Some
20 of them are repetitious. So if it's repetition
21 because on the CAG you get it from two or three
22 people, it would be deleted. I might print one
23 out of the five, or I might print a portion of
24 one of the five that I've printed. But I delete
25 everything.

1 Q So it would not be a complete universe,
2 but rather, a subset of what you believe are the
3 most important?

4 MR. BRANDES: Objection.

5 Go ahead.

6 THE WITNESS: I only keep what I
7 thought was important, in my mind.

8 (Marked Exhibit 11.)

9 BY MR. SHERK:

10 Q Okay. Let's talk a little bit about your
11 property, Mr. Simon. Let me show you what's
12 been marked as Exhibit No. 11. I'll represent
13 to you this is a public document entitled
14 "Warranty Deed."

15 Do you see that?

16 A Yes.

17 Q Okay. Does this appear to you to be the
18 warranty deed for your property?

19 A Yes.

20 Q Dated October 22, 2003; correct? It's
21 right?

22 A Oh, in the legal stuff, yes.

23 Q Okay. So when you bought your property it
24 was just a chunk of land?

25 A Yes.

1 Q Okay. And you paid for it yourself?

2 A Yes.

3 Q When you bought the property, did you have
4 a real estate agent?

5 A Yes.

6 Q Okay. You got some assistance as to
7 locating the property?

8 A Yes.

9 Q As I understand it, though, you had
10 already determined what area you wanted to live
11 in?

12 A Depending on the property, yes.

13 Q How much did you pay for it?

14 A 43-something, I think. 43 or 48,
15 something like that. I don't remember. I
16 supplied it, but off the top of my head, I'm
17 not --

18 Q You were the sole owner at the time it had
19 been purchased?

20 A Yes.

21 (Marked Exhibit 12.)

22 BY MR. SHERK:

23 Q Okay. Mr. Simon, let me show you now what
24 has been marked as Exhibit 12, and I'll
25 represent to you that that's a document --

1 another public document entitled "Quitclaim
2 Deed."

3 Do you see that?

4 A Yes.

5 Q Okay. Under this quitclaim deed, did you
6 convey an interest in this property to your
7 domestic partner, Phyllis Burns?

8 A Yes.

9 Q Is that dated September 22, 2004?

10 A Yes.

11 Q This was prior to the building of your
12 house?

13 A Yes.

14 Q Okay. Did she offer any consideration for
15 her interest in this property?

16 A What do you mean "consideration"?

17 Q Did she pay you any money?

18 A For the property itself?

19 Q Yeah.

20 A No.

21 Q And she became tenants in common with you
22 as to the ownership of this property; correct?

23 A Yes.

24 MR. BRANDES: Objection.

25 Go ahead.

1 BY MR. SHERK:

2 Q Okay. Was the quitclaim of the interest
3 in the property kind of a gift?

4 MR. BRANDES: Objection.

5 Go ahead.

6 THE WITNESS: No. It was a
7 partnership.

8 BY MR. SHERK:

9 Q You two were in it together?

10 A We have a contract on our relationship
11 based on our property ownership and household
12 ownership.

13 Q Oh, okay.

14 So while she didn't give you any
15 money for her interest in the property, she
16 provided some kind of other consideration that
17 went toward your partnership interests?

18 A We have a -- we have an all-encompassing
19 one loan situation. She had a paid-off home.
20 She invested the money from the sale of her home
21 into this partnership to build a new property.

22 Q That brings us very quickly to the next
23 exhibit.

24 DEPOSITION OFFICER: 13.

25 (Marked Exhibit 13.)

1 BY MR. SHERK:

2 Q Now, I'll represent to you that Exhibit
3 No. 13, which is in front of you, is a deed of
4 trust.

5 Do you see that?

6 A Yes.

7 Q Is this the deed of trust entered into by
8 you and Ms. Burns for a construction loan?

9 A Yes.

10 Q Okay. The amount of the loan was 3,000 --
11 no, \$372,000; correct?

12 A Yes.

13 Q When did you start building your house?

14 A I imagine it's in here somewhere, if I
15 wanted to read through all this. I know when it
16 was completed, but when we started exactly, I
17 can't really remember.

18 Q Who was your contractor again?

19 A Bob Posey, Posey Construction.

20 Q Did Phyllis Burns contribute moneys
21 through the partnership into the construction of
22 this house?

23 A Yes.

24 Q Do you know what amount she contributed?

25 A No.

1 Q Would it be in the --

2 A Well, I know what value she took from her
3 paid-off home, but there was other things
4 purchased along the way. But to keep track of
5 it, go back and look it all up, probably could
6 do it if I wanted to spend the time to do it.

7 Q When was the project completed?

8 A August of 2005.

9 Q Okay.

10 A I believe, to the best of my knowledge. I
11 know I've been in there slightly over five
12 years. So again, I could look that up if you
13 really need it. But I think I supplied that all
14 to my counsel and you should have it.

15 Q I can help you with that, and I think
16 you're on target.

17 A That's good.

18 (Marked Exhibit 14.)

19 BY MR. SHERK:

20 Q Let me hand you Exhibit No. 14. And
21 before you take a look at that, what were the
22 terms of the partnership between you and Phyllis
23 Burns?

24 A I'd have to furnish the contract because
25 it's complex. It's a legal contract between the

1 two of us drawn up by an attorney that stated
2 what would happen if one wanted out of the
3 relationship, what you would get in financial
4 rewards and what you would pay towards renting
5 the property, things of that nature.

6 Q It sounds a little bit like a prenuptial
7 agreement.

8 A No, it is not a prenuptial.

9 Q Because you didn't get married?

10 A It is a business contract on a piece of
11 property.

12 Q It pertains only to the property then?

13 A Yes. The properties and what would happen
14 if you decided to -- one partner or the other
15 want out.

16 Q Is that -- have the clauses of that
17 contract ever been needed to be exercised?

18 A Not yet.

19 Q Is there a possibility?

20 A Never know. We hope not.

21 Q All right. Let's turn our attention back
22 to Exhibit 14.

23 That is a document entitled "Loan
24 Modification Agreement."

25 Do you see that?

1 A Yes.

2 Q Does that signal the completion of your
3 property -- your house construction?

4 A Explain "signal."

5 Q The loan modification, was this entered
6 into around the time that your house was
7 finished being built?

8 A I would assume so, based on the fact it's
9 August 8 of 2005. I really don't know what this
10 document is supposed to be or mean. If this
11 means it went from construction loan to
12 mortgage, I would say that would signal sort of
13 the completion of the project, and based on the
14 240,000, I would say that is the mortgage that
15 we entered upon after completion.

16 And it's with Mortgage Investment
17 Group which is who did the mortgage.

18 Q This \$240,000 amount is less than the
19 372,000 odd dollar deed of trust amount;
20 correct?

21 A Correct.

22 Q Okay. Was the difference in the values of
23 those loan obligations owing to the fact that
24 Ms. Burns contributed some money?

25 A Both of us did.

1 (Marked Exhibit 15.)

2 BY MR. SHERK:

3 Q Okay. All right.

4 I'll show you what has been marked as
5 Exhibit No. 15. Mr. Simon, I'll represent to
6 you that this is a document entitled "Notice of
7 Completion."

8 Do you see that?

9 A Yes.

10 Q I think this may have been what you were
11 referring to just a minute ago.

12 A Similar.

13 Q Okay. This is a document that just
14 attests to the fact that the house has been
15 built and signed off on; is that correct?

16 A Yes.

17 Q Okay. And that's dated August 8, 2005?

18 A It says right on here date of structure
19 completion September, looks like, 6 of 2005.
20 And this looks like an occupancy statement that
21 has to be one of the permits that's approved.
22 Oh, that's August 6 of 2005. I'm sorry.

23 Q That's right, August 6, 2005. Does that
24 ring a bell?

25 A Yes.

1 Q Okay. Under your partnership, if somebody
2 wants out of the relationship, is the house then
3 automatically offered up for sale?

4 A Not automatically. It depends on what the
5 parties arrive at.

6 We must hire two independent
7 appraisers to appraise the property, arrive at a
8 fair market value, place the property for sale,
9 and if either party decides to move out from
10 under that roof, there's stipulations as to who
11 pays for how much rent and how much you must
12 still contribute to remain as an owner of that
13 property, or either/or could buy each other out.

14 Q But it is not the present intention of you
15 or Ms. Burns to live somewhere else?

16 A No.

17 Q Okay. You're both living there now?

18 A Yes.

19 Q Okay. And it's your intention to continue
20 to live together --

21 A Yes.

22 Q -- in the foreseeable future?

23 A Yes.

24 (Marked Exhibit 16.)

25 BY MR. SHERK:

1 Q Mr. Simon, you've just been handed Exhibit
2 No. 16, and that's a document entitled "Deed of
3 Trust."

4 Do you see that?

5 A Yes.

6 Q This appears, at least to me, to be a home
7 equity loan, something of that sort.

8 Does that -- is that your
9 understanding as well?

10 A Yes.

11 Q And that's dated April 27, 2007; is that
12 correct?

13 A Yes.

14 Q Was that loan entered into for a
15 particular remodeling job or improvement that
16 you and Ms. Burns wished to make to the house?

17 A No. This is my home equity loan, mine and
18 mine alone. This was to compensate for having
19 to withdraw more funds out of the retirement
20 account, and this was to pay off taxes and some
21 other debts incurred within the house.

22 Q So no construction occurred as a
23 consequence of this loan?

24 A No. This was -- there was a 28 percent
25 early withdrawal penalty.

1 (Marked Exhibit 17.)

2 BY MR. SHERK:

3 Q Mr. Simon, let me hand you what's been
4 marked Exhibit No. 17. And this is a document
5 that we received from you Bates numbered 000450.

6 Do you recognize this document?

7 A Yes.

8 Q Is this a -- a tax appraisal? Looks like
9 a county tax appraisal?

10 A Yes.

11 Q Correct, okay.

12 This is for the year 2009; correct?

13 A Yes.

14 Q Okay. And the property, the total
15 appraisal was \$290,900; correct?

16 A On this appraisal piece of paper, yes.

17 Q And that included both the house and the
18 value of the property; is that right?

19 A Yes.

20 Q Is that right?

21 A Yes.

22 Q Did you take issue with this appraisal
23 when you received it?

24 A I didn't receive this. Actually, I was
25 handed this particular document in one of the

1 early TVA meetings with Anda Ray, vice president
2 of public relations for TVA, is the first I had
3 seen it.

4 Q Uh-huh.

5 A Because for some reason, the tax
6 assessor's office was not either mailing it to
7 me, or whatever they were mailing out in the
8 form of a card was going to my mortgage company.
9 So I had never seen this until Anda Ray
10 presented this at a public meeting.

11 Q How was it that you received that from
12 her?

13 A At a public meeting. They handed it out
14 to everybody that attended.

15 Q Okay. And do you know --

16 A For those properties.

17 Q -- why that took place?

18 A Do I what?

19 Q Do you know why they were handing out
20 documents like that?

21 A I don't remember why she handed them out.
22 It was something supposedly to convince us that
23 our property was still valuable and/or that they
24 were looking into where our properties were at.
25 I don't really remember, other than that, why

1 she handed them out.

2 And then it may have been in
3 conjunction with the tax assessor's office.
4 Teresa Kirkham may have been there at that same
5 time, I think, with some of her staff from the
6 County Assessor's office.

7 Q Was this a meeting where the values of
8 properties in the area were being debated?

9 A No. It was a -- people complaining about
10 the fact that they felt their property values
11 had went south after the spill. And to appease
12 us, they brought this type of information.

13 Q Okay. Your dispute about taxes would have
14 been directed toward the State and the County;
15 isn't that right?

16 MR. BRANDES: Objection.

17 Go ahead.

18 THE WITNESS: No. When a disaster
19 strikes like it did, with no knowledge and no
20 backup as to how they arrived at property values
21 and/or what they're looking at for the future,
22 without TVA local people coming together to
23 supposedly supply you with their understanding
24 of what the values were and how they were
25 affected, we wouldn't have any knowledge without

1 going there and doing it ourself. And they
2 volunteered to do it, if I remember correctly.

3 BY MR. SHERK:

4 Q So this was a cooperative endeavor between
5 people in the community and TVA to try to work
6 on values of properties?

7 A I guess a simple way to explain it, my
8 assumption would be this was a PR move by the
9 County and TVA to convince us that we were not
10 harmed. That's the best I can assess.

11 Q And that's where you got that document?

12 A I believe so.

13 (Marked Exhibit 18.)

14 BY MR. SHERK:

15 Q Mr. Simon, you've now been handed Exhibit
16 No. 18. And I'll represent to you that this is
17 another real estate appraisal. This is, by the
18 way, Bates numbered 000451.

19 Do you recognize that document?

20 A Yes.

21 Q Okay. Is this your 2010 real estate
22 appraisal?

23 A It was at the time.

24 Q Okay. Was the total appraisal value of
25 your home \$409,200?

1 A Yes.

2 Q Okay. There's some handwriting on this
3 document. Do you see that?

4 A Yes.

5 Q Is that your handwriting?

6 A Yes.

7 Q I figured that. It depicts \$409,200 minus
8 \$290,900, showing an increase of \$119,000; is
9 that right?

10 A That's the math between the two forms,
11 Exhibit 18 and 17.

12 Q So on this survey, the value of your home
13 had increased \$119,000 in one year; is that
14 right?

15 A Yes.

16 Q How did you receive this document?

17 A Went to the tax assessor's office and
18 secured it.

19 Q Okay. Upon securing it, what did you do?

20 A Requested a review.

21 Q Okay. Did that happen?

22 A Yes.

23 Q Okay. And what were the results of the
24 review?

25 A Sat in front of four or five people,

1 looked at a map on the wall, and they told me
2 they'd get back to me. They were reviewing the
3 taxes at the time.

4 Q And that's where it stands today?

5 A No.

6 Q So after you sat in the room with the
7 folks, did any --

8 A I went back to the tax assessor's office
9 yesterday.

10 Q And what happened then?

11 A And got another new sheet of paper like
12 this.

13 Q And what did it say?

14 A It says it's going back -- reverting back
15 because property values have diminished.

16 Q Did you bring that with you today?

17 A No.

18 MR. BRANDES: We'll produce it to
19 you.

20 MR. SHERK: Okay.

21 THE WITNESS: It's -- I'm
22 pre-mailing. Supposedly, they're going to mail
23 it out. I had heard from neighbors that they
24 received some notices, so yesterday I went to
25 the tax assessor's office to get it. That's how

1 I happened to have it yesterday.

2 BY MR. SHERK:

3 Q You got a copy, just didn't bring it?

4 A Same sheet.

5 Q And the value on it, again, is?

6 A Going back to this 290, whatever it was
7 here, 299 -- yes, went back to 299, 299
8 thousand -- I mean, 290,900.

9 Q All right.

10 A I might add, I don't know if it's official
11 yet. All I know is I got a sheet of paper. I
12 did not receive anything other than what I asked
13 for.

14 (Marked Exhibit 19.)

15 BY MR. SHERK:

16 Q Okay. Mr. Simon, you've been handed
17 Deposition Exhibit No. 19, a document Bates
18 numbered 000454. And I'll represent to you that
19 we received this document from your counsel, and
20 it's entitled "Petition for Reconsideration and
21 Reappraisal of Property Taxes for Residents of
22 Swan Pond."

23 Did you see that?

24 A Yes.

25 Q Is this a document that you drafted?

1 A Me?

2 Q Yes, sir.

3 A No.

4 Q Someone in your community did?

5 A I remember the document. I don't remember

6 the details of who or what or where this came

7 from. The document -- you know, I remember

8 seeing this, but I don't know how I got it or

9 where it came from.

10 Q It was nothing that you ever signed or

11 filed, then?

12 A No.

13 Q Okay. Other than the meeting that you had

14 when you received your 2010 property appraisal,

15 have you done anything else in terms of

16 appealing your property assessment of 2010?

17 A Restate that.

18 Q Yes, sir. Just a bit ago you discussed

19 having received your 2010 property appraisal

20 with a pretty substantial increase. You went

21 and met with the tax authorities to discuss it;

22 correct?

23 MR. BRANDES: Objection.

24 Go ahead.

25 THE WITNESS: Yes.

1 BY MR. SHERK:

2 Q Did you file anything or do anything
3 additionally to have your property assessment
4 reevaluated?

5 A I only followed the procedures that the
6 tax assessor's office said that we could. If it
7 means listing the house for sale, yes. If it
8 means reducing the price of the house when it
9 was up for sale, yes.

10 Q Is that what they --

11 A Does that answer it?

12 Q Is that what they instructed you to do?

13 A No. I just went through the tax deals.

14 Q Okay. I'm sorry, I just didn't understand
15 the --

16 A I know. I just went through the tax
17 deals. I listed the house myself.

18 Q Okay.

19 (Marked Exhibit 20.)

20 BY MR. SHERK:

21 Q Mr. Simon, let me show you a document
22 which is Exhibit 20, Bates No. 000098. And this
23 is a document that we received from your counsel
24 that is entitled "Sales Agency Contract."

25 Do you see that?

1 A Yes.

2 Q Is this -- does this pertain to your
3 listing the house as you just described?

4 A Yes.

5 Q Okay. This document provides for a period
6 where Price & Associates would represent you as
7 real estate agents from May 24, 2010, until
8 September 20, 2010; is that correct? And
9 looking at the very tiptop of this document.

10 A Yeah. I thought this was a 60-day
11 agreement, and I'm not sure if that isn't why
12 it's initialed up in this corner, next to that
13 "9/30/10."

14 Q I see that initial.

15 A I had called this agent and told him that
16 I wanted a 60-day agreement only, and if you
17 look, it's kind of smudged in some of that area.
18 I'm not exactly sure why that is, but I thought
19 I had a 60-day agreement.

20 Q Right. It looks longer than that here,
21 but the document is smudged.

22 A That was not my understanding when I
23 listed it. I was listing it for 60 days and
24 then I was going to reduce it. But I had no
25 activity, so it really didn't matter at that

1 point in time. I was just letting it ride until
2 I went ahead and called him and had the price
3 reduced.

4 Q Okay. So this went on -- on the market on
5 May 24, 2010; correct?

6 A Yes.

7 Q For \$669,900?

8 A Yes.

9 Q Was this in a real effort to sell the
10 house, or was it just an effort to demonstrate
11 to the tax authorities that your property
12 wasn't --

13 A This was in a real effort to sell the
14 house based on what I have in it.

15 Q And this was an effort subscribed to by
16 your domestic partner, Phyllis Burns?

17 A Both of us, joint.

18 Q Okay. All right. And both of you signed
19 the listing agreement, I think?

20 A Yes.

21 Q All right. Did you put a sign in your
22 front yard?

23 A Yes.

24 Q Did you put a sign down by the river?

25 A It's not allowed. It's TVA property.

1 Q And you indicated there wasn't much
2 activity?

3 A Zero.

4 Q Okay. So did you then reduce the amount
5 of the listing?

6 A Yes.

7 Q When did that occur?

8 A I don't have the document. It -- it was
9 somewhere after 62, 63 days. I don't really
10 remember exactly the date because I had to call
11 him, and then he e-mailed me something, and I'm
12 having some virus computer problems, and I don't
13 know how long it took me before I could finally
14 get something back to him. But approximately 60
15 days after this listing is when I did the
16 reduction.

17 Q And "him" would be the real estate
18 agent --

19 A Yes.

20 Q -- you were dealing with?

21 A Yes.

22 Q So after 60 or so days, you coordinated
23 with your real estate agent to reduce the
24 listing of your house?

25 A Yes.

1 Q And did you reduce it \$30,000?

2 A Yes.

3 Q So it would have been listed for \$639,900;
4 correct?

5 A Yes.

6 Q Pretty good for an English major.

7 And does -- is the property still on
8 the market?

9 A No.

10 Q Okay. When did you pull it from the
11 market?

12 A A week and a half, two weeks ago,
13 something. I'm trying to do a refinance on it.
14 It cannot be listed on the market to do a
15 refinance, so I had to take it off the market.

16 Q One more time? I'm sorry, I missed that.

17 A I am trying to refinance the home, and it
18 cannot be listed for sale and do a refinance, so
19 I had to pull it off the market.

20 Q After you complete the refinancing
21 paperwork and fund a loan, will you put it back
22 on the market?

23 A Yes.

24 Q I think you may have mentioned earlier
25 today that under your partnership agreement, if

1 you were going to sell the house, you would get
2 two appraisals of it?

3 A Only if we have a disagreement and we have
4 to arrive at a price -- if we cannot arrive at a
5 price on a mutual understanding, we would have
6 to go out and get two independent appraisals and
7 then arrive at a price to list it at.

8 Q So --

9 A We had an agreement on this price.

10 Q How did you determine the value of the
11 home at its original price of \$669,900?

12 A By what we have in actual receipts, based
13 on what it cost us to build the home. And with
14 a sky, of course.

15 Q A little bit of blue sky?

16 A I would hope so. There's been other
17 improvements.

18 Q Both of you also concurred in dropping the
19 price \$30,000?

20 A Yes.

21 Q When you placed the property back on the
22 market, when you complete your home equity
23 process, will it be at this \$639,900 range?

24 A I don't know yet.

25 Q Who -- which entity are you using for the

1 refinancing?

2 A U.S. Bank.

3 Q That's a different bank than you've used
4 before; is that right?

5 A Yes. My loan was Countrywide originally,
6 secured through Mortgage Investment Group, which
7 Countrywide was taken over by Bank of America.

8 Q Have you provided the refinancing
9 documents to your counsel?

10 A I don't know.

11 Q Okay. If you get those, we would
12 appreciate it if we could get copies of those.

13 A Well, I haven't got much done yet. All
14 I've got is two pieces of paper.

15 Q Oh, okay.

16 A We've applied. It has not been approved.

17 Q Oh, all right. I'm sorry. I
18 misunderstood.

19 A That's okay.

20 Q So the application documents have been
21 prepared?

22 A Yes.

23 Q And that's as far as you've gotten?

24 A Well, it's in process, I guess. I called
25 yesterday to see where we were at. All I was

1 told it was in the process, a lot of people
2 applying for refinancing right now. So I
3 haven't paid for any appraisals. I've paid a
4 \$50 fee so far, I have two pieces of paper.
5 That's as far as I can go at this point until
6 somebody tells me different.

7 Q All right. So if we could get those
8 application documents, that would be perfect.
9 Thank you.

10 When you were assessing the
11 out-of-pocket costs for your home, what -- do
12 you know the ultimate dollar figure and how that
13 figure was arrived at?

14 A By receipts for what we spent money on,
15 whether it was going to Lowes, Home Depot,
16 buying a ceiling fan, whether it was to go into
17 Crossville to buy Crossville tile, whether it
18 was to buy light fixtures, whatever we spent
19 money on, we have receipts to back up so I know
20 what I have in the property.

21 Now, could it be higher if I analyzed
22 every single shrub she put in and many of the
23 landscape things and so forth and other
24 amenities that have been added in the yard and
25 different places, probably would be higher. But

1 basically, we know exactly what the raw bulk
2 cost was to produce this property.

3 Q And that was?

4 A About \$560,000 at the time of closing.

5 Q All right. Let's change gears a little
6 bit, Mr. Simon.

7 Prior to the spill, prior to
8 December 22, 2008, prior to the spill, did you
9 at any time believe that you were being exposed
10 to hazardous materials as a consequence of
11 living in some proximity to the Tennessee Valley
12 Authority facility?

13 A I had no real understanding or knowledge
14 of a coal burning power plant. I could only go
15 by what the Realtor said and what the natives of
16 the community said, that there's a power plant
17 there and you're four miles from it. I don't
18 know much about coal. I know a lot more today.

19 Q So you didn't -- it doesn't sound as if
20 you had an understanding one way or another
21 whether or not --

22 A I had -- the questions I asked of anybody
23 when I was trying to purchase this property, I
24 didn't learn anything that was a warning sign
25 that there could be an environmental problem.

1 Q So at no time prior to the dike failure
2 did you have any kind of medical examination to
3 determine whether or not you had been exposed to
4 hazardous materials?

5 A No.

6 Q You are seeking medical monitoring in this
7 lawsuit?

8 A I don't believe so.

9 Q Okay.

10 A I thought this had -- I thought that we
11 had publications from our counsel and other
12 people that medical is not a part of this.

13 Q Do you feel that you have been exposed to
14 hazardous materials?

15 MR. BRANDES: Post the spill?

16 MR. SHERK: Yeah, since -- since --
17 let me rephrase that.

18 Q Since December 22 of 2008, do you believe
19 you've been exposed to hazardous materials?

20 A Yes.

21 Q How so?

22 A Water, land, air, automobile. Remember,
23 TVA did not demand truck washes and so forth, so
24 for many months we drove through ash-covered
25 roads to get in and out of our neighborhood. I

1 do get in the water. I guess I would use the
2 analogy that if you spilled poison on this table
3 and you wipe it off, I can still go back and
4 find poison on this table with sophistication.
5 So I'm sure I'm exposed.

6 Q What materials that are hazardous do you
7 believe you were exposed to?

8 A Whatever TVA's told us. Arsenic, lead,
9 mercury, iron, poison.

10 Q Anything else that you can think of?

11 A I don't know what else is in there, but
12 arsenic is a very big word. It's very
13 concerning to many people.

14 Q What makes you think that you've actually
15 been exposed to these materials?

16 A Probably due to the fact that we've
17 cleaned our furnace filters religiously every
18 month. We replaced them shortly after the
19 spill. So I would say, in an unsophisticated
20 way, in an un -- you know, analyst's way, I feel
21 there's ash in the furnace filters. I feel that
22 there's ash residue at the shoreline. I've
23 been -- that's been confirmed.

24 If you're in the water, we know
25 there's ash in the water. I had a dredge

1 outside of my house. I can stir up ash across
2 from the site in 1.7 depth of water. It's
3 dustier than before. The river's cloudier than
4 before. There are many unsophisticated ways of
5 saying that, yes, our community has been exposed
6 to ash in many areas.

7 Q Do you have any actual measurement of your
8 exposure to any of these materials?

9 A Just what TDEC took a sample of that I
10 stepped in.

11 Q Has anyone performed a medical examination
12 of you to determine whether or not you've been
13 exposed to any kinds of hazardous materials?

14 A No.

15 Q Of all those materials that you've listed
16 just a minute ago, do you think you've been
17 exposed to them in the same amounts?

18 A Each one the same amount? I couldn't tell
19 you that. Somebody could study that, probably,
20 and break it down for you. I can't tell you
21 that.

22 Q Do you know if anyone has?

23 A CAG community, we get a lot of numbers of
24 different things they study, but we got a lot of
25 numbers of where ash was at in the river for the

1 last two years. And I was told there was very
2 minute areas of ash from mile marker 4 to 6.

3 But I had a dredge out there 24
4 hours a day a year later. When the charts and
5 graphs from TVA and EPA showed me, it showed no
6 ash. Was I exposed to it? Every day, because I
7 asked the EPA, Is there ash from 4 to 6? When I
8 called TRWA at the mouth of the Little Emory and
9 said why, when I took the chopper tour, is the
10 water a different color up there? They said
11 there's ash in our mussel traps.

12 When a dredge is outside of your
13 house 24 hours a day, two of them, a hydraulic
14 and a clam shell and you watch them pick up ash
15 and it's less than 50 yards, 75 yards from your
16 house, yes, I have been exposed, sir.

17 Q Now, has any medical doctor or scientist
18 examined your blood or taken any urine sample to
19 determine whether you've been exposed to a
20 hazardous substance?

21 A I had three back surgeries. I'm sure
22 there's some records of what my body parts and
23 pieces are in 2008. But did I go to a
24 specialist and have him just examine me for
25 these particular things? So far, I have been

1 relying on waiting to see what happens in the
2 spill, and I don't think any of this can be
3 determined without long-term studies.

4 So, no, I haven't went to a
5 specialist and said, Hey, tell me if I've got
6 two parts of something in me.

7 Q Okay. In terms of exposure, you talked
8 about material in the area; is that correct?

9 A Yes.

10 Q Have you retained anyone, any scientist,
11 to do air monitoring or study the potentially
12 harmful components in the air?

13 MR. BRANDES: Objection.

14 Counsel, for clarification, you mean
15 separate and apart from his counsel?

16 MR. SHERK: Yes.

17 MR. BRANDES: Okay.

18 THE WITNESS: Have I -- rephrase it,
19 please.

20 BY MR. SHERK:

21 Q Yeah. Have you retained anyone to conduct
22 a study as to whether or not there are harmful
23 components in the air?

24 A No.

25 Q Do you know whether your counsel has done

1 that?

2 A I don't remember if he did or didn't. We
3 get a lot of stuff to read. I'm not sure.

4 Q After the spill, did you take any
5 precautions in terms of your breathing the air
6 around your house?

7 A Just cleaning furnace filters, keeping
8 windows closed.

9 Q You didn't wear a face mask or anything
10 like that?

11 A No.

12 Q Did you suffer from any breathing
13 problems?

14 A No more than normal.

15 Q You mentioned the water is a potential
16 source of exposure. Have you had your drinking
17 water tested for the presence of hazardous
18 materials since the spill?

19 A No, because our drinking water comes from
20 Harriman. It does not come from Kingston.

21 Q Did you begin the practice of purchasing
22 bottled water?

23 A No.

24 Q You didn't boil your water before drinking
25 it?

1 A No. I visited all the water treatment
2 facilities with the Harriman Utility Department,
3 but our water does not come from -- as far as we
4 know, especially as far as what we knew when I
5 visited those sites, there's only ash to mile
6 marker 2 or 3. And Harriman water comes way
7 past mile marker 6, if that's as far the ash
8 went up.

9 Q In terms of your furnace filters, did you
10 ever have those tested?

11 A No, because I pulled them and discarded
12 them before I knew we were supposed to save
13 them. My furnace filters, the two I have, are
14 very expensive, they're \$57 for two of them.
15 I've vacuum them every month, so no, I do not
16 send them out to be tested anywhere because I
17 have to special order them from somewhere to get
18 them.

19 Q So you discarded them?

20 A (No audible response.)

21 Q And you have an expensive HVAC and, it
22 sounds like, an expensive heater and air
23 conditioner?

24 A I wish I could explain it to you. They're
25 two big filters, and nobody seems to carry them,

1 you can't buy them anywhere. I don't know what
2 the deal is on them, but --

3 Q They're high quality?

4 A I guess so. Or high priced.

5 Q We've talked, you know, at some point in
6 time today about your water skiing and -- on the
7 river; correct?

8 A Yes.

9 Q And your professional level, great skier,
10 and have continued to ski since the spill?

11 A Yes.

12 Q Do you also swim in the river?

13 A You swim when you ski.

14 Q And you boat on the river?

15 A Yes.

16 Q And you continued to boat on the river
17 since 2008?

18 A When I have not been restricted, yes.

19 Q But you're not much of a fisherman?

20 A No. I fish at Kroger.

21 Q Have you ever been out on the river to
22 either participate in or observe cleanup
23 operations?

24 A Yes.

25 Q Can you tell me about those instances when

1 you've done that.

2 A Well, you view the site any time you're on
3 the water, so you see the activity going on.
4 When you stand on your dock, you're basically in
5 the water. When you're watching and listening
6 to what's going on on the dredges out there.

7 Recently, supposedly when all
8 dredging is done, going down to see the barges
9 that are supposed to block the inlet to the
10 skimmer pond, just as a recreational Sunday
11 night, ride down the river a little bit, the
12 Coast Guard and TVA have not re-marked the river
13 very well. It's actually a safety hazard. And
14 the boat, by backing up and moving around to
15 view the site, got stuck in 1.7 feet of water,
16 the prop turned up a lot of ash.

17 When I got out of the boat to lift
18 the swim platform up and get the boat from being
19 aground, I did my own unsophisticated study of
20 fly ash in the river based on what EPA is
21 telling us of an approximate amount of ash they
22 think they left out there. When I can kick it
23 up with my feet, there's still ash in the river.

24 So did I view the site and do I
25 think there's still problems out there and do I

1 continually view the site, as long as I live and
2 as long as I live in this area, I will continue
3 to monitor what I can see to see to it that this
4 community is made whole.

5 Q Okay. So are you skeptical of the
6 information that you're receiving from EPA?

7 A Absolutely. From everyone.

8 Q In terms of contact with the land or the
9 soil, you mentioned that earlier on as well.
10 Other than mowing your lawn or something like
11 that, how do you come in contact with the land?

12 A I walk barefooted, with shoes, I pick up
13 limbs, got major tree damage, had to move
14 lumber, dead tree -- after tree trimmers came in
15 and cleaned it up, I had to move the stuff.
16 What little weed pulling and landscaping I do, I
17 come in contact with it. Washing the car, I
18 suppose.

19 Q In your set of interrogatory responses,
20 Mr. Simon, it indicates that you have increased
21 the cleaning, vacuuming, dusting, and washing,
22 not sure of what.

23 A I had to have the house power washed.

24 Q The outside?

25 A Yes.

1 Q You clean the interior air filters more
2 often?

3 A Yes.

4 Q You've talked about that already, okay.
5 You've closed the windows of your house?

6 A Yes.

7 Q Okay. You've washed your cars and
8 motorcycles more often?

9 A Many more times.

10 Q You've avoided construction areas?

11 A As much as possible.

12 Q Okay. You've had -- there's been one
13 testing of the -- of the river sludge at your
14 house; correct?

15 A Yes.

16 Q By the -- by the boat dock?

17 A Sure.

18 Q We marked that on an exhibit?

19 A Yes.

20 Q No other soil testing has taken place at
21 your house; correct?

22 A Not that I'm aware of.

23 Q Have you avoided eating any foods in the
24 area?

25 A If it means the offer of food out of

1 people's gardens this year, some people have
2 some gardens, have offered us stuff, yes, I've
3 avoided it.

4 Q Have you taken any special procedures for
5 washing your food?

6 A All food is washed.

7 Q Do you eat fish out of the river?

8 A No.

9 Q Has that been your practice since you've
10 moved in?

11 A If you launch at many of the launch ramps,
12 there's a sign there that says do not eat
13 certain kinds of fish, so that's pretty good
14 warning for me that you probably shouldn't eat
15 fish out of those rivers. And the dead fish
16 that I had at the shore also dilute wanting to
17 eat fish out of that river.

18 Q Has any physician told you that you are at
19 a significantly increased risk of disease
20 because of your exposure to hazardous
21 substances?

22 A No.

23 Q Okay. Do you -- your understanding is
24 you're not seeking medical monitoring in this
25 case; is that right?

1 A That's correct.

2 Q You said earlier this morning that you
3 think that ash has gotten onto your property and
4 so forth.

5 Do you remember that?

6 A Yes.

7 Q How do you believe that ash has gotten
8 there?

9 A Water, air, vehicles.

10 Q Okay.

11 A Clothing. I mean, just any activity in
12 the area, I believe, brings ash onto your
13 property, especially water.

14 I also irrigate and pump out of the
15 river, so I'm sure I'm putting ash on the lawn.

16 Q Was that the little red --

17 A Yes.

18 Q -- box at the bottom of your yard?

19 A Yes.

20 Q I wondered what that was.

21 A Good eye.

22 Q So I take it you've got an intake permit
23 for that?

24 A I don't think we need one. Remember,
25 mine's not tied into an irrigation system.

1 Q It is just --
2 A Mine is tied into a garden hose.
3 Q Have you got Exhibit 2 right there,
4 Mr. Simon?
5 A I have 1. I should have 2. Yes.
6 Q That's not what I want. How about 3?
7 A Here's 3. It's a map.
8 Q All right. Let's take another look at
9 Exhibit 3, Mr. Simon. This is a map where you
10 have placed your -- the location of your home on
11 it. I'll also represent to you that the -- the
12 outline in purple is the geographic class area
13 of class 1 that was taken from the consolidated
14 class action complaint that was filed.
15 A Is that 1, or is that 2?
16 Q That's 1.
17 A Okay.
18 Q Do you see that?
19 A Yes.
20 Q I may have asked you this. If I have, I
21 apologize.
22 But do you know the -- the logic
23 behind the boundary that has been drawn there?
24 A Well, yes and no. Do I understand the TVA
25 logic behind it? When I looked at all the

1 impact zones, the red, the yellow, the blue and
2 so forth in the map I saw, no, it doesn't
3 correspond to this.

4 Do I understand for the legal class
5 actions of this the difference between the two
6 zones for legal purposes, yes, I do understand
7 that.

8 Q Okay. What is your understanding as to
9 why the boundaries are drawn where they are with
10 regard --

11 A Because there's difference of impact based
12 on areas. Air, water, and land from impact area
13 1 and impact area 2.

14 Q So for example, if -- if you were -- you
15 have a property at mile marker 4, that is on the
16 river; correct?

17 A Yes.

18 Q Do you think your impact would be
19 different than a person that lives in the area
20 of Emory Heights, which is in the northwest
21 corner of the class area?

22 A I really can't answer that. I don't know
23 how much dust they got based on wind currents
24 and so forth. Everybody in that area is more
25 impacted than certain other areas, but to define

1 how and who is affected how much, I really can't
2 do it.

3 Q They wouldn't have the water exposure
4 there, would they?

5 A They wouldn't have the water, but I'm not
6 qualified to tell you how different people are
7 impacted. I just don't have that expertise.

8 Q You'd have to look at everybody to
9 determine their circumstances?

10 MR. BRANDES: Objection.

11 THE WITNESS: I'd have to have data
12 from somebody that I understood.

13 And looking at my mark, we could be a
14 little low there because I think that portion's
15 like 12 and probably a little higher up.

16 BY MR. SHERK:

17 Q Okay.

18 A That wasn't the best map.

19 Q Do you mind if we take a five-minute
20 break. I'm really bakingly hot.

21 THE VIDEOGRAPHER: This marks the end
22 of tape No. 3. Going off the record. Time is
23 2:29.

24 (Recess.)

25 THE VIDEOGRAPHER: On the record.

1 Here marks the beginning of Tape No. 4. Time is
2 2:58.

3 (Marked Exhibit 21.)

4 BY MR. SHERK:

5 Q We are back on the record, Mr. Simon. I
6 think we're in the home stretch, or I hope so,
7 anyway.

8 Let me -- let me show you what has
9 been marked as Exhibit No. 21. I'll represent
10 to you that this is a document that we took
11 off -- I believe it's the Tennessee Health
12 Department website.

13 Have you seen this before?

14 A I think so. I think I furnished this to
15 my counsel, and I think it was either handed out
16 at one of the meetings and/or it was mailed to
17 us, I'm not sure. It seems -- it looks
18 familiar. Now, whether that's just because of
19 the logos, I don't know.

20 Q I think this may have been in the
21 materials you produced, actually. This one was
22 color, kind of snazzier exhibit.

23 Anyway, I call this -- or at least I
24 call this the public health assessment, for lack
25 of a better term.

1 Are you familiar with the -- what
2 happened with the public health assessment that
3 this document concerns?

4 A Will you explain that to me or ask that
5 question differently or something, please?

6 Q No problem. Did you know that the -- the
7 Tennessee Department of Health, along with
8 others, performed a public health assessment
9 arising out of the spill at the TVA facility?

10 A I have recollection -- recollection of
11 some of this health situation stuff, but I am
12 somewhat confused on pieces, parts of it.

13 Q Sure.

14 A Brad, from the Tennessee Health
15 department -- I don't know what his last name
16 is -- attends almost all CAG meetings. There
17 was literature and different things that came
18 out that said we could go get some sort of
19 public testing.

20 And I guess I've got some confusion,
21 too, because I think we talked about sometime
22 here today, I said, you know, I don't think any
23 of this can be very important if we don't have
24 long-term health studies. And you asked me
25 something about a health study, and I said,

1 Well, I don't think my counsel or our company or
2 whatever was doing it because I thought it was
3 just a short-term deal.

4 But long-term stuff, publications
5 regarding the health, we've had a lot of
6 publications on it. So I've had a lot of
7 confusion within pieces, parts, of anything to
8 do with the health end of this stuff. I'm
9 not -- this looks so familiar, but yet I don't
10 know if it's just the pictures or the logos that
11 makes it familiar because every meeting Brad
12 makes some sort of statement about some health
13 studies of some sort. And then TDEC has some
14 stuff to do with some health and then so does
15 TVA.

16 So when it comes to this health
17 issue, I -- there's a lot of pieces, parts
18 that -- I don't know, I would have to study and
19 go back and look at. I'm really kind of
20 confused on pieces, parts.

21 Q Let's take a look at just the front page
22 of this document under the heading, "What is a
23 Public Health Assessment?"

24 Do you see that?

25 A Uh-huh.

1 Q It reads,

2 "A public health
3 assessment is a formal
4 government report. It is a
5 review of available information
6 about hazardous substances at a
7 site. It evaluates whether
8 exposure to chemicals might harm
9 people. A public health
10 assessment considers all
11 environmental issues related to
12 actual or possible human
13 exposure."

14 Did I read that correctly?

15 A Yes.

16 Q Okay. Down at the bottom of that
17 paragraph it says,

18 "A public health agent
19 assessment can be prepared by
20 either the Tennessee Department
21 of Health's Environmental
22 Epidemiology Program (EEP) or
23 the federal Agency for Toxic
24 Substances and Disease Registry
25 (ATSDR). TDH is preparing this

1 PHA with review and
2 certification by the ATSDR."

3 Did I read that correctly?

4 A Yes.

5 Q It sounds like a -- something from NASA or
6 the Pentagon, but in any case, here's my
7 question.

8 Does -- does looking over that
9 introductory paragraph remind you that there was
10 this health assessment prepared by the Tennessee
11 Department of Health?

12 A Well, I believe they were doing one. But
13 when you're talking public health, is that air,
14 water, sickness type?

15 Q Yeah. Let's go to page 3.

16 A Let me rephrase it that to you a second.

17 I guess one of the reasons I said
18 there's a lot of confusion in the health end of
19 this thing is is we've had presentations
20 constantly. Leo from the EPA, who's time
21 critical, the most critical phase of this
22 cleanup, has stated that fly ash you can go roll
23 around in it, and you'll get skin agitation, but
24 just go in and take a shower.

25 Then we've got people who are giving

1 out facts and numbers and professional
2 evaluations and so forth. Then you've got air
3 monitors, such as the drive-bys that happened in
4 my neighborhood, the one I question. What kind
5 of monitoring are they doing? What do they do?
6 They're not supposed to smoke. They're supposed
7 to actually get out of the vehicle. They're
8 supposed to be -- originally there would be
9 12-minute monitoring, then they went to 2
10 minutes.

11 Then when I viewed them going by my
12 home, from the time they went by the window till
13 the time they made the cul-de-sac, came back,
14 took them 45 seconds. I know they didn't get
15 out of the truck. I don't know what they
16 monitored.

17 Then I guess if I put more with this
18 health deal, I've got the floating little dock
19 out there with the blinking light that people
20 come up every day. Sometimes I hear, well, I
21 guess we screwed that up. We better come back.
22 So then I see a pontoon boat come back up. Then
23 they tell us where they have -- and have maps to
24 show us where they have all these different
25 monitoring stations.

1 But for a layperson like myself to
2 really understand all this health stuff without
3 some scientific people that will do a long-term
4 study, which I'm assuming from, I think, some of
5 our conversations I may have misunderstood some
6 of what we talked about, that my counsel is
7 advocating that and so is the CAG advocating
8 what we want, independent people doing
9 long-range study.

10 So I tie that all together as part of
11 this health issue. For a layperson to
12 understand all these different facets of it,
13 quite honestly, I'm very confused with all of
14 it.

15 Q I appreciate that.

16 Let's -- just to kind of dissect this
17 document right here, let's turn to page 3.

18 On the top left-hand corner it says,

19 "What data sources did

20 TDH choose?

21 Do you see that?

22 A Uh-huh.

23 Q And it under lists -- under that it lists
24 ash, surface water, public drinking water,
25 private wells and springs, ambient air, and

1 radiological.

2 Do you see that?

3 A Uh-huh.

4 Q So that may answer your question about the
5 kinds of things that were being studied in this
6 public health assessment.

7 A But there's -- in the CAG meetings -- and
8 I have to say this -- in the CAG meetings, there
9 were some monitors that didn't work. And
10 there's been many, many discussions about all
11 these different things. We have a person on the
12 CAG that questions their testing of the water at
13 high water points saying they were afraid to put
14 people out there, it was dangerous, but they
15 wouldn't take a sample from a dock.

16 So when it comes to this health
17 stuff, it gets very technical. And for a
18 layperson to understand all the different
19 discrepancies that have been discussed regarding
20 all this testing, quite honestly, you get to the
21 point you just say, hey, I don't have the
22 expertise to do it, I'm going to let somebody
23 else do it, and I'm going to wait.

24 Q Let's look No. 2 under the subpart,

25 "What are the

1 Conclusions In the Public Health
2 Assessment?"

3 Do you see that subpart?

4 A Oh, down here. Okay. I'm sorry.

5 Q Yeah, No. 2. The first sentence reads:

6 "It is unlikely that
7 harm occurred to people from
8 touching the coal ash when they
9 had to climb out of their
10 damaged homes in the morning on
11 December 22, 2008, and to those
12 who returned to retrieve
13 personal property."

14 Do you remember that conclusion being
15 talked about in any of your meetings?

16 A I think discussions would have been more
17 when the McFarland divorce proceedings were
18 going on and he was suing his ex-wife because
19 she let the kids swim at the Kingston gravel
20 pit. I think it would be more discussions when
21 Leo said, go ahead and roll around in it, Make
22 sure you take a shower afterwards. I think it
23 was more people saying, oh, yeah, you can swim,
24 but make sure you take a shower.

25 That would be my recollection of how

1 these things affected people and how they
2 paralleled it with something. The way it's
3 written here, no.

4 MR. BRANDES: Can we go off the
5 record for one second?

6 MR. SHERK: Sure.

7 THE VIDEOGRAPHER: Going off the
8 record. Time is 3:09.

9 (Off the record.)

10 THE VIDEOGRAPHER: Back on the
11 record. Time is 3:09.

12 BY MR. SHERK:

13 Q Let's move farther down.

14 A Excuse me, before go on, could I ask this
15 question? Is this what just came out in the
16 study that they advised us was going to come out
17 at the CAG meeting last Thursday and just hit
18 the newspaper?

19 Q No, that's a different study.

20 A This is not that publication of last
21 night?

22 Q This is from the Tennessee Department of
23 Health.

24 A Oh. But isn't that who released the study
25 last night?

1 Q No. That's a different entity, and we'll
2 talk about that in just a minute.

3 A Okay. Okay. Just so I know. I'm trying
4 to relate to this.

5 Q A lot of moving parts. This is a -- this
6 is a public health assessment by the Tennessee
7 Department of Health.

8 Let's look at the first sentence of
9 conclusion No. 3.

10 "No harm to the
11 community's health is expected
12 from touching the coal ash."

13 Did you have occasion to discuss that
14 conclusion in any of your CAG meetings?

15 A Yes. I would say we -- we touched on
16 almost all phases of -- because every department
17 has to make a spiel at the meeting. So there's
18 questions asked. So we briefly go over pieces,
19 parts of it.

20 Q Let's skip down to No. -- conclusion
21 No. 6.

22 "Using municipal
23 drinking water from the Kingston
24 and Rockwood water treatment
25 plants will not harm people's

1 health because the raw and
2 finished water have continuously
3 met drinking water standards."

4 Did I read that correctly?

5 A Yes.

6 Q Do you remember discussing that conclusion
7 in your conversation?

8 A Not the conclusion, but we have discussed
9 the Kingston one several times.

10 Q All right. Moving down to No. 8.

11 "No harm to people's
12 health should result from
13 recreational use of the Emory,
14 Clinch and Tennessee Rivers
15 outside the area of the lower
16 Emory River down to the
17 confluence of the Emory and the
18 Clinch Rivers, as specified in
19 the recreational advisory and
20 river closure."

21 Do you see that?

22 A Yes.

23 Q You were aware of that conclusion?

24 A We -- I think we covered it, not written
25 as you have it here. We covered it because we

1 do not trust it, because we were told not to
2 swim for a period of time. So this would be in
3 contradiction to what has been publicized. And
4 we have argued that point at several -- at the
5 CAG meetings and so forth with different
6 departments.

7 Q Okay. In terms of your personal river
8 usage, though, you've been able to get out there
9 and do water skiing and stuff?

10 A I do do that --

11 MR. BRANDES: Objection.

12 Go ahead.

13 THE WITNESS: I do do that, but I've
14 questioned all agencies continuously since the
15 day of the spill, how much ash is from 4 mile
16 marker and up. Actually, I went more closer to
17 the 3 mile marker, where they originally --
18 between the 2 and 3, they had the booms
19 originally. And I've questioned that, I
20 mentioned earlier, about the chopper tours and
21 the discoloration of water and talking to TRWA
22 about ash in the mussel traps and so forth.

23 So I have questioned that
24 continuously and so have other members of the
25 CAG.

1 When did this come out? There's no
2 date on there, is there?

3 Q No.

4 MR. SHOCKLEY: October 30, 2009 was
5 the initial release.

6 MR. SHERK: October 30, 2009.

7 THE WITNESS: Okay. No wonder I
8 don't remember all of this. Thank you.

9 MR. SHOCKLEY: Just for the record,
10 that's according to the Department of Health
11 website.

12 MR. SHERK: Thank you.

13 (Marked Exhibit 22.)

14 BY MR. SHERK:

15 Q Now, Mr. Simon, I have handed you Exhibit
16 No. --

17 A 22.

18 Q -- 22. I'll represent to you that this is
19 a collection of documents that involve the
20 Kingston project screening program that was
21 conducted by ORAU.

22 The first couple of documents, we
23 actually had copies that you had produced to us.
24 The third document of this set of three, though,
25 we didn't.

1 Let me ask if you recognize these
2 documents.

3 A It was handed out at one of the meetings.
4 I did not spend any time reviewing it.

5 Q Okay. If you go to -- let me see here.
6 The second document in that exhibit -- let's
7 see, the one that is entitled at the top,
8 "Kingston Project Medical Screenings, What Can I
9 Expect?"

10 Do you see that?

11 A Yes.

12 Q When you were given this document, did you
13 understand that ORAU was going to conduct a
14 screening project arising out of the Kingston
15 facility spill?

16 A Yes, I believe so.

17 Q Okay. Did you, at any time, have an
18 interest in participating in the screening
19 project that was being offered?

20 A Well, I was advised by counsel not to.

21 MR. BRANDES: Objection.

22 Don't get into conversations with
23 counsel. That's privileged.

24 THE WITNESS: Okay. Rephrase your
25 question, please.

1 BY MR. SHERK:

2 Q Sure. Prior to speaking with your
3 counsel, did you form any interest in
4 participating in the screening program?

5 A No, because we had many discussions about
6 it, what university was doing it, who was paying
7 for it, and so forth. And there was a consensus
8 of the CAG at that time that we were asking for
9 independent, long-range sampling. And the
10 discussions with the CAG group was that we were
11 not blessed this package as far as doing
12 something like that.

13 Q Why was that?

14 A We didn't -- because we felt that it was
15 not privileged information. Many people wanted
16 to go to their own doctors. Many people didn't
17 want Vanderbilt doing the testing. Many people
18 didn't want people out of Oak Ridge doing it
19 because of connections with the TVA authority.

20 We had many discussions on this. I
21 can remember that part. And I know the
22 consensus was I don't think anyone on the CAG
23 was going to do this commercial one, that they
24 were going to do their own or none.

25 Q Do you know anyone that participated in

1 this ORAU screening study?

2 A No, I don't believe so. I mean, if I knew
3 they did it and I knew the person, but no. Do I
4 really know that somebody went and did it
5 through this deal, no, I do not know that.

6 Q Did you attend a meeting yesterday about
7 this screening project?

8 A No. I forgot that was on. It was a
9 public meeting, I believe, last night.

10 Q Did you see any newspaper reports about
11 the results?

12 A Yes.

13 Q And what did you read?

14 A All I know is that it was published in
15 today's news, Knoxville News Sentinel, and it
16 said that -- something about the fact that there
17 was no effect from the fly ash.

18 Q Okay. Let's talk a little bit more about
19 the Citizens Advisory Group. I know we touched
20 upon that briefly earlier today.

21 A Yes.

22 Q As I understand it, the Citizens Advisory
23 Group was formulated post spill; correct?

24 A No, it was after the spill.

25 Q Right. After the spill, correct.

1 Now, and it sounds, from what you
2 said earlier, as if it was -- many of the people
3 involved were part of the Emory River Group or
4 association?

5 A Not really, no.

6 Q Oh, okay.

7 A Of the original Emory River Group that
8 that Joanie Morgan sends out e-mails on, I
9 believe -- I believe just her and I are the only
10 two left out of that because we only had a
11 couple different meetings, and the consensus was
12 in order to be able to hire a technical advisor
13 and to get assistance and be in the
14 communication mode for the community, we had
15 to -- and to get funding, I should say, we had
16 to form the group that we did. And that was at
17 the recommendation of EPA, if I remember right.

18 Q Was that -- a part of this circle of
19 cleanup was the establishment of this Citizens
20 Advisory Group?

21 A It's part of the Superfund circular, yes.

22 Q Okay. Great. And from your interrogatory
23 responses, the members of CAG are Brenda Timm?

24 A Yes.

25 Q Steve Scarborough?

1 A Yes.

2 Q Penny Dotson?

3 A Yes.

4 Q Sara McCain?

5 A No.

6 Q She's dropped out?

7 A Yes.

8 Q Jill Murphy?

9 A Yes.

10 Q Joanie Morgan?

11 A That's the -- is it Joanie? Is that what

12 it says? I think they call her Jonnie. Maybe I

13 only know her by her nickname.

14 Q Donna Campbell?

15 A Yes.

16 Q Peggy Blanchard?

17 A Yes.

18 Q Randy Ellis?

19 A Yes.

20 Q And Rick Cantrell?

21 A Yes.

22 Q You're at least familiar with all these

23 individuals through your CAG meetings?

24 A Just through the meetings, yes.

25 Q You're not independently friends with

1 them?

2 A Not really, no.

3 Q Do you have any idea where any of these
4 individuals live?

5 A Peggy -- there's a couple of those women
6 live out by me somewhere on Swan Pond Circle.
7 Brenda Timm, I drive by her -- yes, I drive by
8 her house. I'm not sure which one it is, but
9 she's in the war zone.

10 Q These women then live in class area 1?

11 A Yes.

12 Q Any other ones that you know where they
13 live?

14 A I think it's Brenda -- you know what? I
15 was going to say Donna, but I don't think she
16 lives out there either. I think it might be
17 Peggy.

18 Quite honestly, I had better not
19 define -- I'm not sure of exactly where they
20 live. Nope, I really can't confirm where they
21 live or don't live, other than I drive by where
22 I think Brenda lives.

23 Q What is your role in CAG?

24 A I'm a member of that group that helps
25 communicate what we learn and discuss with

1 various departments to the community. We
2 basically are a communication tool. We're an
3 oversight committee, let's say, that
4 communicates.

5 Q You communicate with EPA and federal
6 agencies, that kind of thing?

7 A As much as possible.

8 Q You try to voice the concerns of the
9 community?

10 A That's our goal, is to voice the concerns
11 of the community.

12 Q Do you have a leadership role on the
13 group?

14 A As much as most of them, probably, yes.
15 Is there one leader, no. We have somebody that
16 chairs it, and basically I can't say one person
17 is the strong leader.

18 Q Who is the chair of the group?

19 A Brenda Timm is the chairman of it, yes.
20 Remember, we are non-paid volunteers, spend a
21 lot of time doing this, and not everybody can
22 attend every meeting. So that might be why you
23 don't see, you know, a president or dictator
24 that leads this group.

25 Q It appears that you've communicated with

1 representatives of TVA, the EPA, federal
2 agencies and TDEC representatives in your role
3 as a member of the CAG group?

4 A Yes.

5 Q Okay.

6 A Both as a member and as a private citizen.

7 Q When you voice your concerns to these
8 various agencies, have they been responsive to
9 CAG?

10 MR. BRANDES: Objection.

11 Go ahead.

12 THE WITNESS: Do they respond? Is
13 that what you're asking?

14 BY MR. SHERK:

15 Q Have they been responsive?

16 MR. BRANDES: Objection.

17 Go ahead.

18 THE WITNESS: Do we get responses?

19 Yes.

20 BY MR. SHERK:

21 Q Has there ever been a time when you
22 haven't gotten any response to a concern that
23 you've expressed?

24 A I believe there has, but I can't recall it
25 at the moment.

1 Q Have EPA or TDEC or TVA ever outright
2 refused to at least attempt to respond to a
3 concern voiced by CAG?

4 A I don't believe so.

5 Q Has CAG ever requested that TVA or EPA or
6 TDEC establish some kind of screening program
7 for those residents who live around the area --

8 A Yes.

9 Q -- of the Kingston spill?

10 And what have the responses been to
11 that?

12 A Not good.

13 Q Have they pointed you to the ORAU project?

14 A I don't recall. When I say screening, we
15 had a test burn that spread soot all over homes
16 and so forth that requests were made to come out
17 and power wash porches, fronts of houses, cars,
18 so forth. We had to request testing, things of
19 that nature. It seems like we have to request
20 and demand testing of certain things. So when
21 we talk about response, I give them a D to a
22 D-plus for response and/or being the offense
23 instead of being the defense.

24 Maybe I should state this, too.

25 Over by the church there was a white van parked

1 there, which I believe it had a TVA sticker on
2 it.

3 Q Which church was that?

4 A That little church on Swan Pond Road. We
5 had to request to find out what the van was,
6 what is it doing there. We had a lot of empty
7 houses. We got desperate times, desperate
8 people do desperate things. We'd like to know
9 what vehicles are doing sitting around. We'd
10 like to have them identified, much like they did
11 the testing of the air in our area. But,
12 please, identify them. Don't tell the guy to
13 not stop when we have to force him to stop to
14 see his identification.

15 I will repeat what I said when we
16 started this morning. Communication and
17 follow-up and/or positive physical activities to
18 assist this community are not very satisfactory.

19 Q Okay. Does the CAG group have its own
20 Internet group that you use to correspond with
21 one another via the web?

22 A I believe they do. But do I know how it
23 works and do I know which one I'm getting, no.
24 I can't define it for you.

25 Q Is that a public set of e-mails? Can

1 anybody access those?

2 A I believe there's two sets. I believe
3 there's a place where the -- there's been some
4 confusion on it because it's tied -- I think
5 they can tie it through the TVA Kingston site or
6 something and respond. I think they can tie
7 through some sort of link there that you can get
8 onto the system with.

9 I just cannot explain to you how the
10 whole thing works. And we had some problems
11 with the server or something, so -- I'm not too
12 techy on this stuff.

13 Q Okay. The funding for CAG, where does
14 that come from?

15 A We get a \$50,000 Superfund, I believe, or
16 CERCLA grant to fund it, which Stephanie,
17 whatever her name is, Brown through the EPA
18 assisted us in setting up. How much we use,
19 whether it's a flat 50, whether it can be
20 expanded, all those kinds of things. It's a
21 very gray area. All we know is we got funding
22 enough to get us started to help defray costs.

23 Q What sorts of things do you do with the
24 \$50,000 fund?

25 A We paid our technical advisor. We had to

1 pay for website type things. We've had to pay
2 for supplies. I think we had to buy Brenda a
3 laptop. I believe we're still getting free
4 meeting space. Other than that, I really don't
5 know.

6 Q Are the e-mails from the Community
7 Advisory Group preserved anywhere that you know
8 of?

9 A I don't know.

10 Q Okay. How about the e-mails from Joanie
11 Morgan?

12 A I don't know.

13 Q Just to be clear, in terms of your
14 e-mails, you are not preserving all of them that
15 pertain to the CAG or to the TVA spill?

16 A No.

17 MR. BRANDES: Objection.

18 Go ahead.

19 THE WITNESS: No.

20 BY MR. SHERK:

21 Q You are preserving those that you believe
22 are interesting or important?

23 A As I stated previously, I retain only
24 pieces, parts, or all of an e-mail that I felt I
25 would like for my knowledge, knowledge for the

1 community or the CAG. I save those. Other than
2 that, I delete everything.

3 Q And has it been your understanding that
4 you were to preserve everything involving this
5 lawsuit?

6 A No. No.

7 Q That has not been communicated to you?

8 A Just save what -- we were told to save
9 stuff. It's like telling me to do a diary.
10 It's not going to happen.

11 Q You mentioned a Bobby Kennedy, perhaps,
12 giving a presentation down here?

13 A No, no, no. You misunderstood.

14 I said a group doing some filming
15 that was funded by Bobby Kennedy.

16 Q That's right.

17 A Supposedly it was at my dock and filmed
18 the slime at my dock. They filmed other things,
19 too. I was not present.

20 Q You independently confirmed that that
21 happened?

22 A Yes.

23 Q Have you tried to reach out to get the
24 film footage?

25 A No.

1 Q Okay. Who was it that verified that that
2 happened for you?

3 A Sara McCain.

4 Q She's a member of CAG?

5 A No. She used to be.

6 Q That's right. She's the one that dropped
7 out. Is she a neighbor?

8 A I know where she lives. She's -- I think
9 I know where she lives. She's up the -- up the
10 river a ways, yeah.

11 Q Is she in some way affiliated with the
12 Bobby Kennedy filming group?

13 A No.

14 Q Do you know how it was that she was able
15 to verify the filming?

16 A I believe I talked to her, and she said
17 that she had been at the dock.

18 Q Does she have a boat at the community
19 dock?

20 A No.

21 Q Okay. Could the presentations that were
22 given early on after the spill by lawyers that
23 were interested in becoming involved, did you
24 meet with firms other than the firm that you
25 ultimately chose?

1 A Did I personally meet with any of them and
2 talk to them in person about anything? No.
3 They made a presentation. They might have hung
4 around the meeting area for a little bit. Did I
5 sit down and talk to anybody to discuss same
6 with anybody or do anything, no.

7 Q Okay. Getting back to the CAG again, the
8 Citizens Advisory Council, who was the technical
9 advisor that was retained by CAG?

10 A Wayne somebody.

11 Q What are Wayne's qualifications?

12 A We had a resume furnished by him, and we
13 voted on him.

14 Q Do you know what --

15 A We had several. We had a temporary
16 technical advisor that TVA paid for and assigned
17 to us for a while out of Virginia -- Richmond,
18 Virginia. But Wayne, I believe, is out of here.

19 Q He quit?

20 A No, no. He's still with us.

21 MR. BRANDES: Out of Tennessee.

22 MR. SHERK: Oh, okay.

23 THE WITNESS: Out of here -- sorry.

24 BY MR. SHERK:

25 Q Wayne was chosen among a handful of

1 possibilities?

2 A I think he was down in the last four or
3 five, yeah. He was chosen out of the last four
4 or five.

5 Q What is his specialty?

6 A I don't remember at this point in time
7 without getting his resume and rereading it.

8 Q Is he a scientific fellow?

9 A I can't answer that without getting his
10 resume out.

11 Q So it could be science, could be
12 computers, could be something like that?

13 A I can't comment on that.

14 Q You just don't know?

15 A Not without looking it up. That's been
16 six, eight months ago already.

17 Q So he's been with CAG six or eight months?

18 A Yes.

19 Q And prior to that, you had kind of an
20 interim technical --

21 A Yes.

22 Q Was that person a scientist?

23 A I read the resume, but what's in the
24 resume, I don't remember.

25 Q What was that person's name again?

1 A I have no idea. There was even a couple
2 of little assistants floating around too, but I
3 don't know what their names were, I don't know
4 what they did, I don't know what their resume
5 said.

6 Q Does CAG have a charter or some kind of
7 written set of goals or procedures it operates
8 by?

9 A We have some bylaws, yes.

10 Q Does the CAG group keep minutes of its
11 meetings?

12 A Yes.

13 Q Okay. Are you in possession of the
14 charter and the minutes -- or excuse me --

15 A I suppose I could get them if I wanted to,
16 yes. We film all of them, and we have minutes,
17 and we follow Robert's Rules.

18 Q If you possess those, we would request
19 them, and we can follow up with your counsel
20 later.

21 A I don't possess them. Somebody can
22 furnish them for me.

23 Q All right. All right. Your meeting
24 yesterday with your counsel, how long did it
25 last?

1 A Four hours, probably, or so, just
2 reviewing the documents that I had supplied them
3 which, I guess so far I've seen they've supplied
4 you, I guess.

5 Q Where did you meet?

6 A Right here, in that little office down the
7 hall.

8 Q Who was present?

9 A Paul and Dave.

10 Q What documents did you review?

11 A Pretty much a lot of the stuff you're
12 handing back to me.

13 Q Anything else of note that you can
14 remember?

15 A Not really.

16 Q Okay. When you attended the Erin
17 Brockovich presentation, did she provide you
18 with a questionnaire or anything like that?

19 A They may have had a pass-out there. I
20 think she was in here twice, and I think I
21 attended both of them. And I thought -- but she
22 was with other people. I think it was at Roane
23 State Community College. But whether I drug
24 anything home as a pass-out from whatever they
25 were floating around there with, I just don't

1 remember.

2 Q Do you remember anything she said at the
3 meeting?

4 A I really went just to review.

5 Q Did she ask people to contact to her --
6 contact her if they were interested?

7 A Her, herself?

8 Q Yes.

9 A I -- I think she might have been there
10 with some counsel, and maybe they handed out how
11 to get ahold of them. I really didn't pay that
12 much attention. I'm not sure if I didn't have
13 counsel at that time already or had already made
14 my own mind up as to what counsel I wanted. So
15 I really can't tell you.

16 MR. SHERK: Okay. Paul, I wonder if
17 we could have a couple minutes, and I can take a
18 look at my notes and can figure out what we have
19 left to talk about.

20 MR. BRANDES: Thanks.

21 MR. SHERK: Does that sound good?

22 MR. BRANDES: Sure.

23 THE VIDEOGRAPHER: Going off the
24 record. Time is 3:40.

25 (Recess.)

1 THE VIDEOGRAPHER: Back on record.

2 Time is 3:55.

3 BY MR. SHERK:

4 Q Mr. Simon, thank you for giving me the
5 chance to look over my notes. I just have a few
6 short questions left for you. My colleagues may
7 have a few more.

8 We touched a little bit about on what
9 you want from this lawsuit earlier today. And
10 in terms of money damages, have you made any
11 kind of internal calculations about what sorts
12 of money damages or how much you think that you
13 may be entitled to?

14 MR. BRANDES: Objection.

15 Go ahead.

16 THE WITNESS: No, I have not. I
17 don't think we're that far enough along.

18 BY MR. SHERK:

19 Q We also discussed remediation earlier
20 today, particularly the remediation of your
21 property.

22 Let me ask you this: Have you asked
23 anybody to do anything in terms of your
24 property?

25 MR. BRANDES: Objection.

1 Go ahead.

2 THE WITNESS: State that a different
3 way or something. I don't really know what you
4 want me to answer.

5 BY MR. SHERK:

6 Q Have you asked TVA or the EPA or TDEC or
7 anybody else to abate or remediate anything on
8 your property?

9 A Still not clear on what you want.

10 Q Have you demanded that TVA or EPA or TDEC
11 come and remove the soil or do anything to your
12 property that you own?

13 A I've requested that they dredge the cove.
14 But have I requested them to do anything on the
15 property itself, no.

16 Q Getting back to Exhibit 3, it's that map.

17 A That's this one.

18 Q If you were to draw the property damage
19 class 2 boundary, would you be able to do that?

20 A No.

21 Q Okay. Even if I showed you the
22 definition?

23 A No.

24 Q You had no input in --

25 A No.

1 Q -- coming up with that?

2 A No.

3 Q No insight into the logic behind it?

4 A No.

5 Q All right. One final question. The
6 little irrigation unit you've got on your
7 property that's attached to a hose, do you think
8 that's a permissible use of -- of the lake
9 water?

10 A Yes, because our association, we pay a fee
11 yearly to TVA for shoreline rights, so it's my
12 understanding, yes, it's permissible.

13 Q All right. That's all I have.

14 MR. BRANDES: You need to move the
15 mic up.

16 E X A M I N A T I O N

17 BY MR. SHOCKLEY:

18 Q Mr. Simon, my name's Gary Shockley. I'm a
19 lawyer from Nashville. I'm here on behalf of my
20 client, GeoSyntec Consultants, Incorporated.

21 I'm going to ask you to do what
22 you've done an admirable job so far of in
23 response to Mr. Sherk's questions, and that's
24 simply to let me know if I ask you anything that
25 you don't understand or you would like for me to

1 rephrase, I'm happy to do that.

2 A Okay.

3 Q My first question, sir, is, as I said, I
4 represent GeoSyntec Consultants, Inc. That's
5 one of the three defendants that you have
6 brought suit against in this case.

7 Do you know what GeoSyntec
8 Consultants, Inc. did at Kingston?

9 A I know they were supposed to be engineer
10 experts as an oversight contractor at the
11 facility.

12 Q And do you know when they served in that
13 role?

14 A I thought they were kind of ongoing. I
15 don't know when they started or when they
16 stopped.

17 Q Okay. We've asked you several questions
18 about your hobbies today, Mr. Simon, and those
19 have included skiing and motorcycles and
20 racquetball and working out at the gym. Is
21 there any that we have not talked about here
22 today, things that you like to do inside or
23 outside?

24 A I like to do everything. Is there
25 anything I missed? I don't know. That's

1 enough, isn't it?

2 Q If that's all, it's enough.

3 You told us that you met with your
4 attorneys maybe a couple of times, once at your
5 house and once in downtown Knoxville, and then
6 again yesterday.

7 Is that correct?

8 A That's correct.

9 Q When was the last time you met with your
10 attorneys in person before yesterday?

11 A I really don't recall. I don't remember
12 if the last meeting was something we had in
13 Knoxville or if it was something we had in the
14 neighborhood. I just -- I can't recall when the
15 last time was.

16 Q And have other people who are parties to
17 your suit attended any of those meetings, or has
18 that just been you?

19 A The meeting in Knoxville was the clients
20 that the firm has. The one at the house, if I
21 believe right -- believe right, or if my memory
22 serves me right, may have been some of the other
23 neighbors who happened to be on the same firm
24 with us. But I can't really recall that
25 completely who all was there. I just don't

1 remember.

2 Q Do you know which attorneys are currently
3 representing you in addition to Mr. Brandes and
4 his firm and Mr. Byrne and his firm?

5 A I've heard the names of either the firms
6 or the people, but I really -- up until
7 yesterday, all I know is Paul and some of his
8 people.

9 Q Okay. So from memory, you can't tell us
10 the names of the attorneys who are currently
11 representing you in this case?

12 MR. BRANDES: Objection.

13 Go ahead.

14 THE WITNESS: No.

15 BY MR. SHOCKLEY:

16 Q The -- the pleadings in this case are
17 available through the website of the Eastern
18 District of Tennessee. Have you had occasion to
19 review any of those records online?

20 A Let me ask you, you mean the TVA website?

21 Q No, sir. I'm sorry, I'm not making myself
22 clear. The court in this case, the federal
23 court in Knoxville has its own website. Have
24 you ever had occasion to go onto the court's
25 website to review any of the documents filed in

1 court?

2 A I would highly -- I don't think so.

3 Q Okay.

4 A I doubt it.

5 Q You mentioned that you had been to I
6 believe it's Ms. Sexton's property? Is that
7 correct?

8 A I think it's a Mrs.

9 Q And is Mrs. Sexton a member of the class
10 that you're seeking to represent?

11 A No -- well, I don't think so. She's down
12 river 10, 12 miles on the Clinch, so I doubt it.
13 She'd probably be in another zone. And I don't
14 know if they're even suing.

15 Q You also mentioned Mr. Grizzard. Is he a
16 member of the class that you're seeking to
17 represent?

18 A Tom Grizzard?

19 Q Yes, sir.

20 A I don't know. There's two Grizzards.
21 There's Tom, Jr. and Tom, Sr., and one of them
22 has a business on waterfront property. They own
23 a lot of property in that area. Whether -- I
24 don't know if either one of them are suing at
25 all or are any part of any lawsuits. I don't

1 know that.

2 Q Do you know if they would be included
3 within any of the three classes?

4 A Yes, they would be in my class, class 1.

5 Q Class 1.

6 A That's us -- right? -- the red zone that
7 he outlined on the map somewhere?

8 Q Now, what about Robert Francis?

9 A He would be down river. I have no idea if
10 he's on any lawsuits or anything either.

11 Q He would not be a member of your class?

12 A Not of ours, no, sir.

13 Q If you would, sir, I'm going to ask the
14 court reporter to hand you what was marked as
15 Exhibit 1 to your deposition, and that's a copy
16 of the consolidated class action complaint.
17 Should be at the bottom of your stack there.

18 If I understood you correctly, the
19 eight other named plaintiffs here on page 1 of
20 Exhibit 1, you don't personally know any of
21 those people?

22 A No. I know none of those people.

23 Q Okay. You've never met with any of those
24 people?

25 A No.

1 Q Do you know where any of them live?

2 A No.

3 Q Do you know which of the three classes

4 they fall into?

5 A No.

6 Q Do you know what their claims are?

7 A No.

8 Q Do you know how their claims are similar

9 to or different than your own?

10 A No.

11 Q You were asked some questions by Mr. Sherk

12 earlier about the Long case. And again, that's

13 not something that you --

14 A I had asked --

15 Q -- recall?

16 A -- clarification on what this Long deal

17 was all about, why I had no recollection of it.

18 Now I understand, it's like this is the Chesney

19 we're talking about. The Long was part of our

20 original deal that got consolidated, so Long is

21 just another name that would be on here. But

22 whoever Long is, I don't know.

23 Q Okay. How was the -- the Long case

24 different than the Chesney case?

25 A I don't know.

1 Q Do you know if the claims are the same in
2 the Chesney complaint and the Long complaint?

3 A Not without reviewing it, I don't know.

4 Q Do you know if the classes are the same?

5 A I don't know.

6 Q In answering some questions, Mr. Sherk had
7 for you earlier about your activities
8 immediately after the spill, you mentioned that
9 you're in and out several times a day and that
10 you can't say what you did on a particular day
11 without looking.

12 Where would you look to find out
13 what you did on a particular day?

14 A I sort of have a desk calendar that I
15 scribble stuff on, days I ski, things I should
16 probably go do, whether it's an oil change,
17 whether it's whatever. It's a rough preplanned
18 outline of what I might do for a day or a week.

19 But is it factual? Did I do all the
20 things that were listed? Probably not. Did I
21 do a lot of them? Yes, I did.

22 All I could do is look at my past
23 desk calendars. I want to keep track of it so I
24 know how many days out of the year I ski, and I
25 put other scribbles on there. So it's a very

1 loose collection of facts and agendas that I
2 either did or didn't do.

3 Q And have you saved all of those desk
4 calendars since December 22 of 2008?

5 A Yes.

6 Q And have all those been produced to your
7 counsel?

8 A Yes.

9 Q Is there anywhere else that you keep track
10 of systematically or more or less systematically
11 like that of your activities?

12 A No.

13 Q I think you've told us you skied 77, 78
14 days this year?

15 A Yes.

16 Q And that would be since the -- the lake
17 level come back up in --

18 A No, since they let us get back in the
19 river.

20 Q Since May?

21 A May 29, I think.

22 Q Would your calendar also tell us when you
23 were out of town competing in skiing events or
24 for other reasons?

25 A Yes, pretty much. As an example, it would

1 show St. Louis in a week or two for an endurance
2 race. But am I going to be there? Right now,
3 I'm saying no. But Montgomery, I will be there.
4 Okay.

5 Q You competed in an endurance race last
6 weekend?

7 A Yes.

8 Q Tell me what an endurance race is.

9 A It's five people to a team or in a boat
10 that you put a skier in the water and he skis as
11 far and as fast as he can -- well, actually, in
12 the Maumee, we have to hit the -- well, I
13 shouldn't say that. Excuse me. Let me rephrase
14 that.

15 Endurance race is five people in a
16 boat. You ski as far and as fast as you can
17 until you either tap out or you fall due to
18 rough water or whatever happens. In Maumee, you
19 need to hit the 4-mile mark with your first --

20 DEPOSITION OFFICER: Excuse me.

21 In -- in --

22 MR. SHOCKLEY: The Maumee, Ohio.

23 M-a-u-m-e-e.

24 THE WITNESS: The Maumee River.

25 It's actually in Napoleon, Ohio or Grand Rapids,

1 Ohio, the Maumee River.

2 In -- at the Maumee River, you have
3 to hit the 4-mile marker because we start --
4 start at 13 boats, side by side. So you want
5 your skier to hit the 4-mile mark without
6 stopping. That's somewhere in the neighborhood
7 of 46 to 52 miles an hour to get there.

8 Then you go to the 21-mile mark.
9 You have mandatory turnaround and a five-minute
10 stop, based on when you get there. And this
11 is -- as soon as the five minutes is up, first
12 boat there, based on five minutes, takes off,
13 the next one, and the next one, based on the
14 five-minute interval. Then you go back down the
15 river and you complete the 41 miles.

16 Q How much of that 41 miles did you ski last
17 weekend?

18 A Let's see, I did twice, so I don't know,
19 five, six, seven, eight miles.

20 Q Barefoot?

21 A Yes. You have to be barefoot. You cannot
22 sit down. You must be barefoot.

23 Q All right. On your calendar -- and I
24 apologize, I haven't had a chance to look at it
25 as closely as I'd like -- do you use a

1 particular shorthand or a code that we would
2 need in order to figure out what your schedule
3 was?

4 A Oh, absolutely. You figure it out and I
5 figure it out together, it would be a miracle.

6 Q What's the key to the code? Can you give
7 us some hints for it?

8 A Well, let's just look at yesterday. It
9 says on -- I put it on the wrong day, but it
10 says bank. It says -- I did three or four
11 things yesterday, so I made two trips in and
12 out. One was to come here, so actually I made
13 three trips in and out, which is six trips,
14 actually, if you take three round trips, and six
15 total.

16 I went to the bank. I can't
17 remember where I went now, but -- it's on there.
18 But I put it on the wrong date so I had to put
19 arrows back to the day it was supposed to be.

20 Oh, I went to the tax office. That
21 was it. But it would say tax office, but I
22 would -- and I had to scratch out tax office for
23 tomorrow because I'm not going there tomorrow
24 because I went yesterday. So does that help
25 you?

1 Q Maybe.

2 But you presumably could translate it
3 if there's something we can't figure out?

4 A Yes. I have a pretty good memory, if I
5 need to, on things I care about.

6 Q Does Ms. Burns keep any kind of calendar
7 like that, or --

8 A She has her schedule for work, which is
9 granite. Sunday's at the grocery store. Her
10 schedule is carved in granite.

11 Q What does Ms. Burns do for a living?

12 A She works at Wee Peeps Boutique, a
13 children's retail store on Kingston Pike in
14 Knoxville.

15 Q What are her hours normally?

16 A Somebody has to always be there ahead of
17 time. I think her hours are 9:00 to 5:30,
18 Monday through Friday, and I think Saturday is
19 9:00 or 10:00 to 5:00, I think.

20 Q So does she work six days every week?

21 A No, they rotate. I -- but her -- she has
22 her schedule. It's 37 miles to work for her, so
23 if she makes stops to keep up with her schedule,
24 I don't pay much attention to it. I know when
25 she works, and I know what time she leaves every

1 morning, and I know she's home sometime between
2 6:00 and 7:00.

3 Q So -- but she does work a full-time,
4 40-hour-a-week schedule?

5 A Yes.

6 Q Four tens at some point during the week,
7 five eights at some point during the week?

8 A Yes.

9 Q You mentioned that -- that you travel for
10 skiing and other reasons. How many nights in a
11 year would you estimate you spend somewhere
12 other than your home here in Kingston?

13 A I'd have to look it up, but I would say
14 probably 20-plus at least.

15 Q If we said 20 to 30, would that be an
16 average range?

17 A Probably be a good number.

18 Q Okay. You mentioned that the Kingston
19 fossil plant is at mile marker 2 and your
20 property is at mile marker 4, roughly; right?

21 A Yes.

22 Q So about two river miles away?

23 A Yes.

24 Q You also mentioned that you did a lot of
25 research before you bought that property;

1 correct?

2 A Yes.

3 Q What research did you do into the
4 environmental conditions of the river or the
5 property prior to your purchase?

6 A Rephrase that, please.

7 Q Sure. You told us you were interested in
8 an area where you can ski, where you had
9 water-like glass, you were out of the wind,
10 those things.

11 What investigation did you do during
12 that period when you were looking into
13 retirement properties into the then current
14 environmental conditions of the Emory, Clinch
15 Rivers?

16 A Aerial, one. Two, boat. Three, just my
17 naked eye, unprofessional, in comparison to what
18 I was living on in Ohio of the clarity --
19 clarity of the water. And quite honestly, one
20 of the neighbors that -- probably shouldn't have
21 believed him, but tried to claim that the Emory
22 was cleaner than the Clinch. But I guess that's
23 a no-brainer.

24 Q You mentioned, if I understood you
25 correctly, you have a yard service that does

1 some of the outdoor work at your house?

2 A Just like -- I don't know who it is,
3 TruGreen or Scotts or somebody comes three or
4 four times a year, five times, whatever they do.

5 Q And do they fertilize your yard for you?

6 A I think there's a couple of
7 fertilizations, there's an over seed, then
8 there's a weed kill, I think. I don't do it.
9 She hires it. I don't know what they do. They
10 put a sticker in the yard that says, I've been
11 here.

12 Q They put that sign up that says yard's
13 been treated today?

14 A Yes.

15 Q Do they tell you to stay off the yard or
16 keep pets off the yard if they treat it?

17 A I don't have a pet. I don't know what --
18 I have no idea. I use the river.

19 Q You don't know what kind of chemicals they
20 use on the yard?

21 A No.

22 Q You were in the service?

23 A Yes.

24 Q What years? You mentioned -- you
25 mentioned Berlin, so was it in the '60s?

1 A I got a -- I got recalled for ten months
2 to Fort Polk, Louisiana for the Berlin crisis,
3 whenever that was. That was -- let's see, that
4 had to be --

5 Q 1962?

6 A Probably 50 years I did my Fort Leonard
7 Wood, I guess.

8 Q How long were you in the service all
9 together?

10 A 16 -- 16 months.

11 Q And did you have a military occupation
12 specialty?

13 A Yeah. A finance clerk.

14 Q Were you ever subject to any military
15 discipline while you were in the Army?

16 A No.

17 Q What was your discharge?

18 A Honorable.

19 Q And while you were in the Army, did you
20 ever work with any type of chemical or paint?

21 A No.

22 Q Did you work with munitions?

23 A No.

24 Q Did you do any type of nuclear,
25 biological, or chemical training?

1 A No.

2 Q You've got a car, a motorcycle, and a
3 boat, if I've understood your testimony
4 correctly?

5 A Yes.

6 Q Who maintains your vehicles?

7 A I do.

8 Q And what all do you do on the vehicles?

9 A Well, due to the ash spill, I wash the car
10 probably twice a week, minimum, if I don't get
11 blasted by the water truck or if they haven't
12 got crap all over the road.

13 The bike, I've been caught a bunch
14 of times. I do my darndest to make sure I don't
15 have to wash it over every other week. The boat
16 is wiped down and cleaned every single day.
17 It's perfectly maintained.

18 Q Do you change oil and filters?

19 A Yes.

20 Q How often do you change the oil and
21 filters?

22 A Every 50 hours.

23 Q In all the vehicles or in the boat?

24 A In the boat.

25 Q What about the car and the motorcycle?

1 A Car gets it every 7,000, and the bike gets
2 it every 5,000.

3 Q And you do that yourself?

4 A Yes.

5 Q Where do you dispose of your motor oil?

6 A At the garbage dump. They've got a
7 recycle oil deal there.

8 Q Did you do anything more than change
9 filters and fluids on the vehicles?

10 A All I do is change oil on the bike, and
11 all I do on the boat is change oil.

12 Q Have you ever done any painting on any of
13 the vehicles?

14 A No.

15 Q You mentioned you don't do much fishing.
16 Do you own your own fishing gear, a rod and a
17 reel?

18 A There's some down in the lower level for
19 the grandchildren, if they ever come back.

20 Q But not yours?

21 A It's probably mine. I'm not sure whose it
22 is.

23 Q When was the last time your grandchildren
24 were there?

25 A The South Carolina group haven't been

1 there since -- they came once since the spill,
2 haven't been back since.

3 Q How about the others?

4 A The other one, my youngest one -- well,
5 he's only a year old, so he's only had a chance
6 to be there once, I guess.

7 Q And how often were they there, say, in the
8 12 months prior to December 2008?

9 A Probably four times a year.

10 Q Would that be reflected on your calendar?

11 A Sometimes. My son-in-law's brother lives
12 on the other side of Kingston here, so I may not
13 have had it on the calendar because they come to
14 visit his brother.

15 Q Are there any other regular visitors at
16 your home in addition to family members?

17 A Skiers, friends, neighbors.

18 Q Who are the most common visitors at your
19 home who are not family members?

20 A Todd Phipps, one of the young skiers.

21 Woody Stinson, one of the other skiers.

22 Occasionally Wayne Masters, one of the skiers.

23 Dan out of North Carolina will be here next week
24 for four days. Just had a guy out of Austin,

25 Texas here two weeks ago. Just had a guy out of

1 Columbus, Ohio here about two and a half weeks
2 ago. I don't know. Whoever shows up when they
3 show up.

4 Q Your ski friends?

5 A We're ski bums.

6 Q And how often would you say in the last 12
7 months you've had overnight guests?

8 A This is month eight, I suppose six, eight
9 times.

10 Q And how about dinner guests?

11 A Three or four, maybe.

12 Q Again, just to make sure I understood you
13 correctly. The slime sample that was taken by
14 TDEC, that's the only sample you're aware of --

15 A Yes, sir.

16 MR. BRANDES: Objection.

17 Go ahead.

18 BY MR. SHOCKLEY:

19 Q -- from your property?

20 A Yes, sir.

21 Q You told us that the only -- the only
22 e-mails that you save are the ones that you
23 print out, that you think are important;
24 correct?

25 A Yes.

1 Q And the others you -- delete by deleting
2 the e-mail from your inbox and then going to the
3 trash can and deleting them there as well?

4 A Yes.

5 Q So you have to take two steps to get rid
6 of them?

7 A Yes.

8 Q Have you ever seen a copy of the
9 preservation order in any of the Kingston cases?

10 A I don't know what the preservation order
11 is.

12 Q Okay. You showed us earlier where -- or
13 you told us earlier that your understanding is
14 that the 2010 valuation of your property for tax
15 purposes has been reduced back to that, I
16 believe, it's 299 --

17 A Yes.

18 Q -- hundred figure?

19 A Yes.

20 Q Do you plan any further appeal beyond that
21 level?

22 A I don't know until I get the special --
23 until I get the official mailing to the effect
24 that it's actually what we just discussed. I
25 stated earlier that I went to the courthouse to

1 get that because I knew neighbors were getting
2 mailings and I had not because previously I was
3 not getting mailings. Until it's confirmed and
4 I know for sure, right now I'm not going to give
5 any thought to it until I see that.

6 Q I take it you did not pursue any appeal
7 last year when you had that 2009 valuation that
8 we saw in Exhibit 17?

9 A No. Quite honestly, I never even saw it
10 until it was handed to me by Anda Ray or Teresa
11 Kirkham, somebody at one of the meetings,
12 because their records were messed up. They were
13 sending them to the wrong place, apparently.

14 Q Am I correct that you put your property on
15 the market in May of this year?

16 A Yes.

17 Q And it's been on the market since May of
18 this year with the exception of the period when
19 you took it off to do your refinancing?

20 A It was approximately 60 days. I did a
21 reduction, and then I pulled it off the market
22 because I applied for refinancing. That is
23 correct.

24 Q And where else have you looked for
25 properties?

1 A Columbia; South Carolina, Lake Murray;
2 Rock Hill, South Carolina; Lake Norman, Mountain
3 Lake, North Carolina. I can't think of the lake
4 over by Raleigh Durham.

5 It's hard to explain. I looked for
6 water property for, probably, eight, ten years
7 by air, and then try and get back down on the
8 ground and go find it by car.

9 So I chased a lot of different
10 places over a lot of different years. But
11 before narrowing it down at the tail end here,
12 heavy South Carolina, North Carolina, a little
13 in Alabama, Huntsville area. That's pretty much
14 it.

15 Q Are you a pilot? Do you fly yourself?

16 A No. I have a friend that flies, skier
17 that flies.

18 Q Have you ever held any licenses of any
19 kind, other than a driver's license?

20 A Yes, I had a pilot's license at one time,
21 when I was 16.

22 Q And how long did you have the pilot's
23 license for?

24 A Till our buddy's dad cut us off of the
25 flying club. It was only about a year, and then

1 he made us join the Civil Air Patrol.

2 Q Have you ever been a pilot since then?

3 A No.

4 Q Have you ever held any other licenses?

5 A No, not that I can recall.

6 Q Have you ever applied for any license and
7 been turned down for any reason?

8 A No.

9 Q Again, if I understood your testimony from
10 this morning, you had approximately \$560,000
11 out-of-pocket in your home at the time of
12 closing; is that correct?

13 A Yes.

14 Q Would the --

15 A Combination construction loan and/or
16 out-of-pocket money, plus mortgage.

17 Q Would the other \$110,000 in your asking
18 price of 670, is that the Blue Sky you referred
19 to?

20 A A portion of it.

21 Q What's the other portion?

22 A I don't know. You'd have to look it up.

23 Q What -- in general, what would it be?

24 A I suppose we've got another 15,000, maybe,
25 since then.

1 Q So you think maybe 15,000 would be --

2 A Rough guess.

3 Q -- additional money you've put into the
4 house?

5 A Yes, sir.

6 Q And the balance would be a profit?

7 A Yes, sir.

8 Q Or appreciation?

9 A Both, hopefully.

10 Q All right. You told us that you think
11 you've been exposed to hazardous materials
12 several different ways: water, land, air, and
13 automobile.

14 What water do you think has exposed
15 you to hazardous materials?

16 A The river water.

17 Q And that exposure would come through your
18 skiing?

19 A Well, if you put on a barefoot wetsuit,
20 it's rubber. It's like a sponge. Proof would
21 be if you come in the boat with a wetsuit on and
22 you sit on the seat, you'd have to have the seat
23 drain after you've been in the boat. Carpet in
24 the boat is usually always wet. They absorb
25 water.

1 And you ingest water. If you think
2 of landing on your chest at 30-some miles per
3 hour before your chin comes off the water, you
4 ingest water. If you think of the fact that
5 when you fall going backwards, when your neck
6 brace flies 10 feet in the air, and you spit and
7 sputter, or if you think when you start forward,
8 you don't ingest water, you have to.

9 So, yes, because the barefoot
10 wetsuits, shoes, equipment you drag back and
11 forth, whether it's a tower, whether it's a
12 boom, whether it's gas cans, whatever you're
13 doing, you're dragging -- some portion of river
14 water is touched at some point in time or you
15 have.

16 Q I take it from your earlier answers you
17 don't believe you've been exposed to ash through
18 your drinking water?

19 A I do not believe I have.

20 Q Any other ways, other than what you've
21 told me, about your skiing, being in the river
22 and such activities?

23 MR. BRANDES: Objection.

24 Go ahead.

25 THE WITNESS: Just, you know, the

1 yard. You know, I'm -- I'm walking in the yard.
2 You're dragging water up the yard, the air.

3 BY MR. SHOCKLEY:

4 Q How in the yard are you exposed to ash and
5 hazardous materials?

6 A If I'm carrying a wetsuit, it drips all
7 the way to the back door. It's been in the
8 river. There's ash at my shore, there's ash on
9 the ropes, handles. Anything we carry has got
10 ash on it because it's been in the water, and it
11 drips in the yard. Because a lot of times we
12 dry our -- or hang our wetsuits out there to
13 dry, and they drip dry out there. The gloves
14 drip. The neck brace drips.

15 If you hose off a car, the first
16 early days of the spill when you're washing it
17 and you're blowing it off the driveway, and you
18 blew it out of your garage by washing it. That
19 all goes on the grass. And I'm on a hill, so
20 it's all coming down. So the yard's got ash in
21 it, the air's got ash in it, the water's got ash
22 in it.

23 Q You mentioned automobiles. How have your
24 automobiles exposed you to hazardous materials?

25 A Driving through the non-washed trucks in

1 the area.

2 Q While you're driving?

3 A They were sloppy. They were coming out of
4 five and six different exits. There was trucks
5 of all nature coming out for the first God knows
6 how many months. TVA couldn't get the truck
7 washes to work properly. They promised dates
8 they were going to work, they didn't work. They
9 promised closing the entries, that didn't
10 happen, so we had ash all around the area for I
11 don't know remember how many months, but it was
12 there.

13 Q I take it you kept the windows on your car
14 rolled up?

15 A Unless I was hollering at somebody for
16 spraying me with the water truck.

17 Q When you wash your cars, do you wear
18 gloves?

19 A I wear a mitt.

20 Q A wash mitt?

21 A Yeah.

22 Q You don't wear one on both hands?

23 A I don't need both hands. One holds the
24 hose.

25 Q You're not wearing gloves to protect you;

1 you're wearing a glove to wash the car?

2 A Yes, sir.

3 Q Do you wear a mask when you mow the yard
4 when you're outside?

5 A Sometimes, yes.

6 Q When have you done that?

7 A When it's too dry, and it's a dust bowl
8 out there. I have hickory nuts and I have dust
9 because I've lost two hickory trees and I've had
10 four trees go down and they've killed all the
11 grass in the back area, so when it's a dust bowl
12 out there, yeah, I've been wearing a mask.

13 Q Okay. To protect yourself against dust?

14 A Whatever's --

15 MR. BRANDES: Objection.

16 Go ahead.

17 THE WITNESS: -- in the air.

18 BY MR. SHOCKLEY:

19 Q I take it you're eligible for Medicare?

20 A Yes.

21 Q Do you have any private health insurance
22 as well?

23 A Yes.

24 Q Who is your private health insurer?

25 A I don't know.

1 Q That's a good sign.

2 A I don't want to know. We just switched.

3 That's one of the reasons I can't answer that.

4 We just switched systems and companies or

5 something. MR, whoever that is.

6 Q Do you have an annual physical?

7 A No.

8 Q When is the last time you had a physical?

9 A Whenever I had the back surgery.

10 Q Is that last year?

11 A I think I'm going on two years now.

12 Q So that would have been 2008 when you had
13 the back surgery?

14 A I believe so.

15 Q How long did you have to lay off skiing?

16 A I did it in the wintertime so I didn't
17 miss any skiing.

18 Q When you -- let me back up just a minute.

19 When you wash your cars, what water
20 do you use? Do you use your irrigation water,
21 or do you use the utility water?

22 A Harriman Utility Water.

23 Q How often do you water your yard from the
24 lake?

25 A So far this year, probably half a dozen

1 times.

2 Q Does that really just depend on how hot it
3 is and how dry it gets?

4 A Yes. And if the pump works.

5 Q Do you have a primary care physician?

6 A No.

7 Q Have you had since you moved to Tennessee
8 in 2005?

9 A No.

10 Q Other than your -- your back surgeries,
11 have you seen a physician since you moved to
12 Tennessee in 2005?

13 A Yes.

14 Q Who was that?

15 A Dr. Roberts.

16 Q What did you see Dr. Roberts for?

17 A Cortisone shot for shoulders.

18 Q I think you said you had those cortisone
19 shots once a month?

20 A This year I was doing pretty good. I've
21 only had one so far this year.

22 Q And is that primarily to help your rotator
23 cuff in your athletic activities?

24 A Yes, and help you sleep.

25 Q Have you ever seen a pulmonologist?

1 A What's that?

2 Q It's a lung doctor.

3 A I don't know. There was tests done in Oak
4 Ridge when I had the back surgery. I don't
5 know, I had to go see a heart guy afterwards
6 because my old blood pressure -- I had to see a
7 guy to do a colonoscopy. But I don't know what
8 tests they did, what they were doing. Just fix
9 me and get me out of here.

10 Q Do you know if you've ever had a pulmonary
11 function test, a breathing test?

12 A I don't -- not that I know of.

13 Q Okay. Let's take a minute and let him
14 change the tape, and I'll try to finish up.

15 A Oh, okay.

16 THE VIDEOGRAPHER: This marks the end
17 of tape No. 4. Going off the record. Time is
18 4:35.

19 (Off the record.)

20 THE VIDEOGRAPHER: On record. Here
21 marks the beginning of tape No. 5. Time is
22 4:36.

23 BY MR. SHOCKLEY:

24 Q Before we went off, I was asking you some
25 questions, Mr. Simon, about physicians. Have

1 you ever, to your knowledge, received treatment
2 for any kind of breathing or respiratory
3 problem?

4 A Would that be allergy type deals?

5 Q Sure.

6 A Yes. I've had some -- I don't know if you
7 call them treatments, but I've seen doctors for
8 hay fever, allergies, to either get shots,
9 script, something of that nature, yes.

10 Q Do you regularly take allergy medication,
11 antihistamines?

12 A No, not if I don't have to.

13 Q You mentioned you were skeptical of
14 information you received from governmental
15 agencies. Is that true of all the government
16 agencies you've communicated with?

17 A Yes.

18 Q You're skeptical about the information
19 you've gotten from TDEC?

20 A Yes.

21 Q And you're skeptical about the information
22 you've gotten from the EPA?

23 A Yes.

24 Q And you're skeptical about the information
25 from the Tennessee Department of Health?

1 A I just don't understand that.

2 Q And are you also skeptical about the
3 information from the Oak Ridge Associated
4 Universities?

5 A If that's one of these reports, I really
6 didn't spend any time reviewing it, so I really
7 have no comments on that.

8 Q What about your local governments?

9 A Yes.

10 Q Is there any governmental agency you feel
11 like has given you reliable information?

12 A Well, at certain times certain people
13 within some of these agencies, yes. I mean,
14 they're just the messengers, but some of those
15 people have been very factual.

16 Q You mentioned that you have had your house
17 power washed; is that right?

18 A Yes.

19 Q Did the people who were doing the power
20 washing, did they wear masks?

21 A I saw him start. I think he did. I don't
22 know. I was gone when he did it.

23 Q Okay. And who was it that you had do
24 that?

25 A It was a service of some sort. I'd have

1 to look up who it was.

2 Q Did you warn him before he started about
3 ash?

4 A I told him that's why I had him out there,
5 and I wanted biodegradable chemicals used on the
6 house, whatever he was using.

7 Q So he used chemicals on the house, not
8 just water?

9 A That's true.

10 Q Do you know what those chemicals were?

11 A No. I wouldn't have any idea.

12 Q You mentioned that many of the launch
13 ramps near your house have warnings about fish
14 posted; is that correct?

15 A That's correct.

16 Q Were those warnings up before December of
17 2008?

18 A Yes.

19 Q So those warnings are not related to ash
20 in the river?

21 MR. BRANDES: Objection.

22 Go ahead.

23 THE WITNESS: I have -- they're
24 related to something to do with the waters. I
25 don't know what they're related to.

1 BY MR. SHOCKLEY:

2 Q Do you know if they were mercury in the
3 river sediments prior to --

4 A I don't know. You could go -- you
5 probably could go to the Ladd's Landing launch
6 ramp over here and read it. I don't know. I
7 really -- you know, it's been a while since I
8 looked at them.

9 All I know is the launch ramps
10 certainly were not notified the river was closed
11 at any place during the spill or the closures.

12 Q One of the things that's alleged in your
13 Complaint, Mr. Simon, is -- this Exhibit 1,
14 paragraph 58, is that you are at an increased
15 risk of future harm compared to the individuals
16 who have not been exposed.

17 Has any physician ever advised you
18 that you are at an increased risk of developing
19 a future disease?

20 MR. BRANDES: Objection.

21 Go ahead.

22 THE WITNESS: I'm going to have to
23 say no.

24 BY MR. SHOCKLEY:

25 Q Have you ever asked any physician that

1 question?

2 A Yeah, I asked the little guy that gives me
3 the cortisone shots, but I don't remember what
4 he said. He's left here now, so I don't know.
5 He retired.

6 Q I take it that you don't have any way to
7 quantify the exposure you think you've received?

8 MR. BRANDES: Objection.

9 Go ahead.

10 THE WITNESS: No, I think my records
11 would show I only go to a doctor if something's
12 broken or something needs to be fixed.

13 BY MR. SHOCKLEY:

14 Q And I'm sorry, I'm asking a slightly
15 different question here.

16 You told me you think you've been
17 exposed to hazardous materials in water, on
18 land, and in the air. My question was do you
19 have any way to quantify to tell us how much
20 exposure you've had?

21 A I don't have the expertise --

22 MR. BRANDES: Objection.

23 Go ahead.

24 THE WITNESS: I don't have the
25 expertise to answer that with any kind of

1 knowledge.

2 BY MR. SHOCKLEY:

3 Q And have you asked any physician to do
4 that for you?

5 A No.

6 Q Have you asked anyone to do that for you?

7 A No.

8 Q Do you know how many -- how many members
9 of the resident class you're seeking to
10 represent there are?

11 A No, not without looking it up.

12 Q Have you made any attempt to estimate how
13 many members of the resident class there are?

14 A No.

15 Q Do you know how many members of the
16 resident class have participated in the Oak
17 Ridge Associated University screenings?

18 A I have no idea.

19 Q You mentioned that the Community Action
20 Group has used its \$50,000 grant to hire a
21 technical advisor. Have you gotten any health
22 or risk advice from your technical advisor?

23 A I think only data of different things that
24 he's reviewed that we have received as a group
25 from any of the agencies.

1 Q Has your technical assistant's advisor
2 ever told you that you are at an increased risk
3 of developing a future disease based on the data
4 he's seen?

5 A We did not discuss that.

6 Q Has anyone in the Community Action Group,
7 when you've been there, asked him that question?

8 A Do not recall.

9 Q You've told us several things that you do
10 at home. You ski, you boat, you do yard work,
11 you cook out, you entertain, you do irrigation.
12 What other things do you normally do at your
13 house?

14 A Sleep, eat.

15 Q And have you continued to do all of those
16 things since --

17 A I sleep pretty well.

18 Q -- December of 2008?

19 A I eat.

20 MR. BRANDES: Objection.

21 Go ahead.

22 THE WITNESS: I -- I don't --
23 rephrase that again.

24 BY MR. SHOCKLEY:

25 Q Sure. Sure. And my question was do you

1 continue to do all of those things you've told
2 us about that you do at home, like all of us
3 do --

4 A I believe most of them, but --

5 MR. BRANDES: Objection.

6 Go ahead.

7 DEPOSITION OFFICER: I'm sorry?

8 THE WITNESS: I believe most of them,
9 but have limited some of them such as the back
10 screened-in porch, the lower patio.

11 BY MR. SHOCKLEY:

12 Q What else have you limited?

13 A That's probably it.

14 Q You mentioned that you've given another
15 deposition; is that right?

16 A Yes, sir.

17 Q When was that?

18 A It's 10, 15 years ago. I can't really
19 give you a year or date.

20 Q What kind of case was it?

21 A It's a -- was a franchise corporate
22 agreement, contract dispute.

23 Q Okay. And did that arise out of your
24 work?

25 A Yes.

1 Q Have you worked at all since 2005 when you
2 came to Tennessee?
3 A No.
4 Q For pay?
5 A No.
6 Q Have you ever smoked cigarettes?
7 A Yes.
8 Q When did you smoke?
9 A Probably from 21 years old to maybe 30
10 years old, maybe not quite that long. I don't
11 remember.
12 Q Have you ever suffered from asthma?
13 A No.
14 Q Ever suffered from bronchitis?
15 A No.
16 Q Ever been diagnosed with chronic pulmonary
17 disease?
18 A No.
19 Q Emphysema?
20 A No.
21 Q You mentioned that you're not a member of
22 any churches. Do you attend any churches?
23 A No.
24 Q How about Ms. Burns?
25 A She has. I don't know where.

1 Q Do you currently belong to any
2 organizations other than the Community Action
3 Group?

4 A Just the Barefoot Club, American Barefoot
5 Club.

6 Q Have you belonged to any other
7 organizations here in Tennessee since you moved
8 here in 2005?

9 A No.

10 Q What's your educational background?

11 A High school and, sort of, two years of
12 college.

13 Q Have you received any training in
14 engineering?

15 A No.

16 Q Medicine?

17 A No.

18 Q Environmental sciences?

19 A No.

20 Q Have you taken any photographs, other than
21 the ones that have been produced to us by your
22 attorney?

23 MR. BRANDES: Objection.

24 Go ahead.

25 THE WITNESS: The only thing that I

1 mentioned earlier, I may have some photographs
2 of the high water. Other than that, none -- not
3 that I can recall.

4 BY MR. SHOCKLEY:

5 Q Other than your back surgery in 2008, have
6 you had any other surgeries?

7 A Broken bones or surgeries? Oh, yes, 150
8 stitches in my left foot and a hernia operation.

9 Q When was the hernia operation?

10 A Oh, gosh, I don't know.

11 Q More than 10 years ago?

12 A Oh, yeah, 30, 40 years ago.

13 Q Have you ever received treatment for
14 cancer?

15 A No.

16 Q Diabetes?

17 A No.

18 Q Any circulatory problems?

19 A No.

20 Q Memory loss or impairment?

21 A No.

22 Q You're supposed to say, "Would you repeat
23 the question, I've forgotten."

24 Arthritis?

25 A No.

1 Q Lupus or any other autoimmune disorder?

2 A No.

3 Q Cirrhosis or any liver disease?

4 A No.

5 Q Do you have any video that supports your
6 claims in this case?

7 MR. BRANDES: Objection.

8 Go ahead.

9 THE WITNESS: No.

10 BY MR. SHOCKLEY:

11 Q Mr. Simon, I believe that's all I have.

12 Thank you, sir.

13 A Thank you.

14 MR. BRANDES: Can we take a break for
15 a few minutes?

16 MS. MORETZ: I just have a few.

17 MR. BRANDES: Oh, go ahead.

18 E X A M I N A T I O N

19 BY MS. MORETZ:

20 Q Mr. Simon, my name is Denise Moretz, and I
21 promise I only have a few questions.

22 In Exhibit 1 that you were looking at
23 there is a reference to a company by the name of
24 WorleyParsons Corporation. That's my client.
25 Do you know who that is?

1 A I know it's an engineering group that was
2 working with TVA.

3 Q Okay. And how do you -- where did you get
4 that information, sir?

5 A We had meetings for a while at the command
6 central where contractors were operating out of
7 with EPA, TDEC and so forth. So in
8 conversations or rooms there was different
9 contractors working out of there.

10 Q And do you know if WorleyParsons worked
11 with or as a contractor for TVA prior to the
12 spill?

13 A I don't know what the dates of their
14 employment were.

15 Q Okay. As far as any specific information
16 as to what WorleyParsons was doing, do you have
17 any specific information?

18 A Just information that we sort of read
19 about.

20 Q And what information are you referring to
21 that you would have read that would have
22 referred to WorleyParsons?

23 A Well, being a CAG member, I'd asked
24 questions because there's bonuses paid to
25 different contractors that do work for TVA. And

1 there's time frames and there's dollars attached
2 to those contracts. We discussed those. Some
3 people shared documents, or at least we looked
4 at them. That was about it.

5 Q Do you recall any specific documents that
6 referred to WorleyParsons, as we sit here today?

7 A Not really.

8 Q Okay. That's all I have. Thank you, sir.

9 A Thank you.

10 MR. BRANDES: Off the record.

11 THE VIDEOGRAPHER: Going off the
12 record. Time is 4:51.

13 (Off the record.)

14 THE VIDEOGRAPHER: Back on record
15 time is 4:57.

16 E X A M I N A T I O N

17 BY MR. BRANDES:

18 Q Mr. Simon, let me show you what Mr. Sherk
19 was showing you earlier, Exhibit No. 2, the
20 answers to interrogatory -- TVA's
21 interrogatories addressed to George Chesney, et
22 al., meaning the other members of the
23 Plaintiffs' group.

24 I want you to specifically look at
25 question 9 and the answer thereto regarding your

1 educational background.

2 Read your response to yourself.

3 A Page 9, you said?

4 Q Right here.

5 A Elementary school, junior high, high
6 school.

7 Q Read it to yourself.

8 A Oh, okay.

9 Q Is that information that you supplied to
10 members of my office?

11 A Yes.

12 Q Do you recall speaking with members of my
13 office to provide certain information in
14 response to questions?

15 A Yes.

16 Q All right. That's all I have.

17 MR. SHERK: Nothing more.

18 THE VIDEOGRAPHER: This concludes the
19 deposition of Donald Simon, Volume 1. Number of
20 tapes used was five. Going off the record.
21 Time is 4:58.

22 (Deposition session concluded at 4:58 P.M.)

23 -o0o-
24
25

1 REPORTER'S CERTIFICATE

2 I certify that the witness in the
3 foregoing deposition, DONALD SIMON, was by me
4 duly sworn to testify in the within-entitled
5 cause; that the said deposition was taken at the
6 time and place therein named; that the testimony
7 of said witness was reported by me, a Shorthand
8 Reporter and Notary Public of the State of
9 Tennessee authorized to administer oaths and
10 affirmations, and said testimony, pages 1
11 through 251 was thereafter transcribed into
12 typewriting.

13 I further certify that I am not of
14 counsel or attorney for either or any of the
15 parties to said deposition, nor in any way
16 interested in the outcome of the cause named in
17 said deposition.

18 IN WITNESS WHEREOF, I have hereunto
19 set my hand the 30th day of August, 2010.



25 Katherine Gale, CSR, LCR #420
My commission expires: 2/27/2012

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E R R A T A

I, DONALD SIMON, having read the foregoing deposition, Pages 1 through 251, taken August 18, 2010, do hereby certify said testimony is a true and accurate transcript, with the following changes, if any:

PAGE	LINE	SHOULD HAVE BEEN
_____	_____	_____
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DONALD SIMON

Notary Public

My commission expires: _____

	10 (14) 24:2;85:3;98:6,6; 119:21;121:25;122:3,16, 17,18;208:12;230:6; 244:18;247:11	2 (19) 55:4;57:17,20;77:13, 24,24;117:25;159:6; 166:3,5,15;167:13; 174:9;176:24;177:5; 181:18;203:19;217:19; 250:19	145:7;146:5;156:3,13 240,000 (1) 132:14 25 (1) 28:13 27 (3) 41:6,7;135:11 28 (1) 135:24 29 (1) 212:21 290 (1) 142:6 290,900 (1) 142:8 299 (4) 142:7,7,7;225:16	372,000 (1) 132:19
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In The Matter Of:
George Chesney, et al. v.
Tennessee Valley Authority, et al.

James G. Worley
August 26, 2010

Vowell & Jennings, Inc.
214 Second Avenue North
Suite 207
Nashville, Tennessee 37201
615-256-1935



Original File 082610A.TXT
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

GEORGE CHESNEY; VIRGIL)
MAINES; WILLIAM GADDIS;)
DEBRA BURNUM; PATRICIA)
CORDELL; JAMES G.)
WORLEY; JEWEL H.)
FRANCIS; DONALD W.)
SIMON; and BARBARA M.)
PHILLIPS,)
)
Plaintiffs,)
)
vs.) CASE NO. 3:09-CV-09
)
TENNESSEE VALLEY)
AUTHORITY; GEOSYNTEC)
CONSULTANTS, INC.; and)
WORLEYPARSONS)
CORPORATION,)
)
Defendants.)
_____)

DEPOSITION OF:

JAMES G. WORLEY

Taken on Behalf of the Defendants

August 26, 2010

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1 The deposition of JAMES G.
2 WORLEY, taken on behalf of the Defendants, on
3 the 26th day of August, 2010, at 9:01 A.M., in
4 the Law Offices of Cooley, Cooley & McFarland,
5 1021 Waterford Place, Kingston, Tennessee, for
6 all purposes under the Tennessee Rules of Civil
7 Procedure.

8 The formalities as to notice,
9 caption, certificate, et cetera, are waived.
10 All objections, except as to the form of the
11 questions, are reserved to the hearing.

12 It is agreed that Katherine Gale
13 being a Notary Public and Court Reporter for the
14 State of Tennessee, may swear the witness and
15 that the reading and signing of the completed
16 deposition by the witness are reserved.

17

18

19

20

21

22

23 JAMES G. WORLEY

24 was called as a witness, and after having been
25 first duly sworn, testified as follows:

1 E X A M I N A T I O N

2 BY MR. SHERK:

3 Q Please state your name for the record.

4 A James G. Worley.

5 Q Mr. Worley, it's nice to meet you.

6 A Thank you.

7 Q My name is John Sherk. I'm with the law
8 firm of Shook, Hardy & Bacon in Kansas City, and
9 I represent the Tennessee Valley Authority.

10 Before we begin, maybe we should
11 announce ourselves on the record.

12 MR. BYRNE: David Byrne on behalf of
13 the Chesney plaintiffs and for the witness this
14 morning, Mr. Worley.

15 MS. FRY: Brantley Fry on behalf of
16 the Chesney plaintiffs and Mr. Worley.

17 MS. LOWE: Ashley Lowe on behalf of
18 GeoSyntec Consultants.

19 MS. STENNES: Libby Stennes on behalf
20 of Worley Parsons.

21 MS. STUBBS: Heidi Stubbs on behalf
22 of TVA.

23 MS. WARD: Elizabeth Ward on behalf
24 of TVA.

25 BY MR. SHERK:

1 Q Great. Now, Mr. Worley, what is your
2 current address?

3 A 2359 Sugar Grove Valley Road.

4 Q And your date of birth?

5 A My -- date of my birth?

6 Q Uh-huh.

7 A November 27, 1932.

8 Q Mr. Worley, have you ever had your
9 deposition taken before?

10 A No.

11 Q Let me give you some ground rules, a few
12 guidelines. Okay.

13 THE WITNESS: What?

14 MR. BYRNE: Yes.

15 THE WITNESS: Yes.

16 BY MR. SHERK:

17 Q The first rule, you'll have to give me an
18 audible verbal response to my questions.

19 Okay?

20 A Yeah. Right.

21 Q It's very important so our court reporter
22 can take down everything we say.

23 All right?

24 A Okay.

25 Q Also, uh-huhs and huh-unhs don't translate

1 so well on the record, so a yes or a no or a
2 more full explanation will be required.

3 Okay?

4 A Okay.

5 Q If you don't understand my question,
6 please just let me know and I'll be happy to
7 rephrase it for you.

8 Okay?

9 A Okay.

10 Q Unless I hear that you're not
11 understanding, I'll just assume that we're on
12 the same page.

13 All right?

14 A Right.

15 Q It's important that you allow me to
16 complete my question before you give your verbal
17 response.

18 Okay?

19 A Okay.

20 Q It's very difficult for the court reporter
21 to take things down accurately if we're talking
22 over each other.

23 All right?

24 A Got it.

25 Q We have some subject matter to cover

1 today.

2 A Some what?

3 Q Some subject matter.

4 A Okay.

5 Q I'll be asking you most of the questions,
6 although some of my colleagues may have
7 questions as well.

8 All right?

9 A Okay.

10 Q We'll move as quickly and efficiently as
11 we can through the material, but this is not an
12 endurance contest.

13 A It's not a what?

14 Q Not an endurance contest. So if you want
15 to take a break, just let me know.

16 All right?

17 A Okay.

18 Q We're not on -- we're not sprinting today.

19 A I may have to take a break because I'm
20 recovering from severe hernia surgery less than
21 three weeks ago.

22 Q Oh, my goodness.

23 A So my stomach may kind of bother me, and I
24 have to get up and move around. My stomach,
25 it's still kind of sore.

1 Q Yeah, I understand. Yeah, please, just
2 give me the word and we'll take breaks.

3 A I'll tell you.

4 Q Will your recent surgery prevent you from
5 giving full and truthful testimony today, sir?

6 A No.

7 Q Okay. Do you have any medical condition
8 that would impair your ability to give full,
9 truthful and accurate testimony today?

10 A No.

11 Q Are you on any medications that would
12 impair your memory or prevent you from giving
13 full and accurate testimony today?

14 A No. I haven't had any pain medication
15 since Sunday.

16 Q Okay, great. You're feeling fine?

17 A Feeling fine.

18 Q Well rested?

19 A I still hurt a little bit, but I'm okay.

20 Q All right. Let me ask you this: What
21 have you done to prepare for your deposition
22 today?

23 A Thought a lot about it.

24 Q All right.

25 A And what kind of -- what I might be asked.

1 Q Did you review any documents or pleadings
2 in this case?

3 A Yes.

4 Q What might those be?

5 A The documents that my attorneys have.

6 Q Okay. The consolidated class action
7 complaint, for example?

8 A Yes.

9 Q Would that be one?

10 A That's one.

11 Q Anything else that you can remember?

12 A No, I think that's everything.

13 Q Okay. Did you review any of the responses
14 to the written questions that we posed to you in
15 preparation for your deposition?

16 A I don't know anything about any written
17 questions that you might have. Have no
18 knowledge.

19 Q All right, then. Did you have the
20 opportunity to meet with your counsel in
21 preparation for today's deposition?

22 A Yes.

23 Q Okay. When did you meet?

24 A Yesterday.

25 Q Okay. Who did you meet with?

1 A The two attorneys here, plus -- who was
2 the other lady here?

3 MS. FRY: Elizabeth Alexander, Beth
4 Alexander.

5 BY MR. SHERK:

6 Q So your two counsel here today, plus Beth
7 Alexander; correct?

8 A Yes.

9 Q And how long was your meeting?

10 A Three hours? Two hours.

11 MR. BYRNE: Give or take.

12 THE WITNESS: Give or take. you
13 know, all I know is we started sometime a little
14 bit after 1:00.

15 BY MR. SHERK:

16 Q That's fine, Mr. Worley. And just do your
17 best. We're not into complete scientific
18 precision.

19 A Well, when everything ended, we were
20 standing on the deck, talking and just not
21 anything pertaining to this, but having a
22 conversation.

23 Q Did you talk to your family about today's
24 deposition?

25 A No, not really, because I don't have any

1 family other than myself and my kids. But there
2 was no reason to talk to them. My wife is
3 deceased.

4 Q How about neighbors? Did you have a
5 chance to speak to them about your deposition?

6 A No.

7 Q Any friends at church, anything hike that?

8 A I haven't spoke to anyone about it, other
9 than my oldest daughter knew I was having it and
10 she drove me over here today.

11 Q What's her name?

12 A Ramona Worley.

13 Q Ramona?

14 A Ramona Worley.

15 Q How old is she?

16 A 50 -- I guess she's 54.

17 Q So have you spoken to your pastor or
18 minister about the deposition or the lawsuit?

19 A No, no.

20 Q Okay. Mr. Worley, do you have Internet or
21 e-mail at your house?

22 A I have -- I have access to the Internet.

23 Q At home?

24 A At home.

25 Q Okay. You got your own home computer?

1 A I have a -- yes. I have a laptop.

2 Q Great. Do you ever use the Internet to
3 follow up on the spill at the TVA facility or
4 learn about the lawsuit?

5 A No.

6 Q Have you ever used your e-mail account to
7 communicate with other members of this lawsuit?

8 A No.

9 Q Have you ever used your e-mail to
10 communicate with other folks in the area who may
11 have been affected by the spill?

12 A No.

13 Q Do you ever use the Internet to look up
14 information about TVA?

15 A No.

16 Q How about the EPA or the Tennessee
17 Department of Health?

18 A No.

19 Q Mr. Worley, you had your counsel produce
20 some documents for us to look at in advance of
21 the deposition --

22 A If -- I would assume that they did
23 probably everything within the law.

24 Q Did you -- did you provide your counsel
25 with materials about the spill that you may have

1 collected over time?

2 A Only information that I observed from when
3 it happened and what -- you know, like that. No
4 documents, nothing written or anything like
5 that.

6 Q You just provided them with some verbal
7 information?

8 A Verbal information, yes, sir.

9 Q Things that you saw or heard?

10 A Oh, I guess -- would that be -- okay, I
11 forgot about that, my property assessment.

12 Q I think we got a few things, yeah?

13 A I forgot about that, sorry.

14 Q That's all right. Have you been keeping
15 things, documents related to the lawsuit,
16 since --

17 A No.

18 Q Has it been your understanding that you
19 should save things, documents and such, that
20 pertain to the lawsuit so you can give them to
21 your counsel?

22 A Repeat that, please.

23 Q Sure. Is it your understanding that you
24 should be saving documents related to the
25 lawsuit or the spill so that you can give them

1 to your counsel?

2 A No. I haven't been made aware that I
3 should be saving any kind of documents.

4 Q Okay. When did you retain your counsel in
5 this case?

6 A Sometime after the spill, and I don't
7 really know the date. I'd have to ask my
8 attorneys.

9 Do you know the date?

10 MR. BYRNE: You only answer from
11 whatever memory you have.

12 THE WITNESS: Okay. I don't
13 remember when it was.

14 MR. BYRNE: If you don't know,
15 that's -- that's fine.

16 THE WITNESS: It was -- it was last
17 year sometime.

18 BY MR. SHERK:

19 Q Okay. And your counsel's exactly right --

20 A After the spill.

21 Q -- Mr. Worley, just do the best you can.

22 A Okay. All right.

23 Q Ask if you don't remember, you know,
24 that's how it is.

25 A I want to answer correctly.

1 Q And I appreciate that.

2 A Yes.

3 Q I really do.

4 So at some point after the spill, you
5 sought out legal representation?

6 A Yes.

7 Q Why did you do that?

8 A Well, I thought that there was damages to
9 the value of my property and access to use of
10 the water that was behind my property.

11 Q Had you reached out to TVA and asked them
12 to purchase your property?

13 A No.

14 Q If TVA were to give you an offer to
15 purchase your property, would that be something
16 that you're not interested in doing?

17 MR. BYRNE: Object to form.

18 THE WITNESS: I would have to
19 evaluate that. I wouldn't say yes or no right
20 now.

21 BY MR. SHERK:

22 Q Okay. So as I understand it, you felt
23 that you had damage to your property and that
24 your access to the water had been impeded by the
25 spill?

1 A Yes.

2 Q And for those reasons, you decided to
3 retain a lawyer?

4 A Yes.

5 Q How is it that you went about finding your
6 lawyer?

7 A I spoke with an attorney friend that's a
8 real good friend of mine and he referred me to
9 this group.

10 Q Okay. And what group is that?

11 A I don't have their name memorized.

12 Q That's fine. Just this group?

13 A This group.

14 Q Just these folks that are right here with
15 you today?

16 A Something Alley, I think, is in the name.

17 Q The Beasley Allen firm?

18 A Yeah.

19 Q Okay. Mr. Worley, had you saved the air
20 filters from your heating and air conditioning
21 unit after the spill?

22 A No.

23 Q Okay. Did you wipe down your car or parts
24 of your house and save those wipes?

25 A No.

1 Q Mr. Worley, I gather from your testimony
2 this morning that you have been married; is that
3 correct?
4 A Yes.
5 Q But your wife has passed away?
6 A Yes.
7 Q How many times have you been married?
8 A Once.
9 Q What was your wife's name?
10 A Clata R. -- do you want her maiden name or
11 married name?
12 Q Maiden name, please.
13 A Shockley.
14 Q How long were you married?
15 A Almost 53 years when she passed away.
16 Q What was the date of her death?
17 A April 19 of 2008.
18 Q How many children do you have?
19 A Two.
20 Q We already know of your daughter, Ramona?
21 A Uh-huh.
22 Q And she's around 54?
23 A Uh-huh.
24 Q What is the name of your other child?
25 A Heather.

1 Q And about how old is Heather?

2 A 42.

3 Q Does either daughter live with you?

4 A My oldest daughter lives on my property.
5 She doesn't live in the house with me. She has
6 her own house.

7 Q And it's correct, sir, that your property
8 has got two buildings on it?

9 A Yes.

10 Q One house is yours and the other is
11 Ramona's?

12 A Yes.

13 Q How long has Ramona lived in that house on
14 your property?

15 A I just have to make a guess. I would say
16 15 years, give -- you know, it could be correct
17 or incorrect. She's been there for some time.

18 Q Has Heather ever lived -- well, she lived
19 in the property -- with the property -- on the
20 property with you, growing up; correct?

21 A Not on this property.

22 Q No?

23 A No.

24 Q And Ramona has lived there for the last 15
25 years?

1 A 15 years, okay.

2 Q Okay. So Ramona was there when the ash

3 spill occurred?

4 A Yes.

5 Q Did you graduate from high school, sir?

6 A What?

7 Q From high school?

8 A Yes, I graduated from high school.

9 Q Where did you go to school?

10 A What?

11 Q Where did you go to school?

12 A White County High School, Sparta,

13 Tennessee.

14 Q Did you have any post high school

15 education?

16 A Yes. I attended business college for a

17 while.

18 Q Where was that?

19 A In Nashville.

20 Q How many years of business college did you

21 have?

22 A I was there less than a year. Because of

23 the draft of the Korean conflict, I quit and

24 joined the Navy.

25 Q How long were you in the Navy?

1 A Four years. And I did attend a machining
2 school in the Navy. And that's what I did all
3 the time I was in the Navy, I worked in a
4 machine shop, warrior aircraft carrier.

5 Q What was the name of the carrier?

6 A USS Hornet.

7 Q Hornet?

8 A Uh-huh.

9 Q What were your dates of service?

10 A March 19, 1951, March 11, 1955.

11 Q What ranks did you hold in the Navy?

12 A I was a third class petty officer.

13 Q Would you have graduated from high school
14 in 1949 or '50?

15 A 1950.

16 Q Okay. What did you do after you left the
17 Navy in 1955?

18 A I worked in a machine shop in Nashville
19 for a while, and then I worked in some machine
20 shops in Detroit, Michigan. Came back to Middle
21 Tennessee for a while and piddled around with a
22 lot of other things, and then went to work at
23 Y-12 in 1959 as a machinist and worked there
24 until I retired in 1954 -- 1994.

25 After that I worked some -- I still

1 have my membership machine -- in machinery, and
2 I worked some outages at Bull Run.

3 Q You still do?

4 A I haven't worked since 2000.

5 Q So from around 1994 to 2000, you worked
6 part-time?

7 A I worked three or four outages out there.
8 I don't remember exactly what. One of the
9 outages lasted three days and the other outages
10 lasted different time frames.

11 Q When you refer to an outage, what do you
12 mean?

13 A Well, when something goes wrong and they
14 don't have enough machinists that are annual
15 with TVA, they will come to the union and the
16 union will send a machinist to do what's got to
17 be done.

18 Q So those are for power outages, then?

19 A Yes, uh-huh.

20 Q Very good.

21 A The shortest one was we had to install a
22 big, huge pump of some kind, circulating pump.
23 I think that was the one that lasted three days.
24 The rest of them, we done a lot of different
25 things, work in a machine shop.

1 Q Very good. Thank you.

2 A Out installing pumps, turning pumps out to
3 be replaced, things like that.

4 Q Looking back over the course of your
5 education and experiences that you've had at
6 work, have you had any education or training in
7 chemistry?

8 A In chemistry?

9 Q Uh-huh.

10 A No.

11 Q Okay. How about biology?

12 A No.

13 Q The environmental sciences?

14 A No.

15 Q Toxicology?

16 A No.

17 Q Agriculture?

18 A No.

19 Q Electronics?

20 A No.

21 Q When you're a machinist, what kinds of
22 things do you do?

23 A What?

24 Q When you're -- when you do the job of a
25 machinist, what kind of things do you do?

1 A What kind of what?

2 Q What kind of work is entailed in being a
3 machinist?

4 A Oh, well, you know, you have to be able to
5 run a lot of different machinery: lathes,
6 grinders, jig boards, horizontal boring mills.
7 And after I sat at the Y-12 plant for a while,
8 they brought in a lot of numerical controlled
9 machines, and you had to learn to operate those
10 and everything. What I actually did out there
11 was all classified.

12 Q So were you making machines or operating
13 machines?

14 A No, operating machines, making some kind
15 of a part.

16 Q Okay. Very good.

17 Let's -- let's loop back to something
18 we talked about just a few minutes ago, your
19 daughter Ramona. She lives on your property
20 with you?

21 A Yes.

22 Q Does she live there with children?

23 A She lived there for a while with her
24 daughter.

25 Q During what period of time did Ramona and

1 her daughter live on the property with you?

2 A Let's see, my granddaughter graduated from
3 high school in Oliver Springs in -- it was
4 either '99 or 2000. And she had lived with her
5 mother there during that time.

6 Prior to that, I think they rented
7 somewhere. I think it was in -- I'm not sure.
8 I think it was in Oak Ridge where they rented.

9 Q What is Ramona's daughter's name?

10 A Erin.

11 Q Erin. Okay. Erin Worley?

12 A Erin Worley.

13 Q Okay. Did she go -- did she live with you
14 during the entire course of her high school
15 education?

16 A She stayed -- lived with me some in Oliver
17 Springs, I think it was her senior year in high
18 school. She worked at Kroger's in Oak Ridge,
19 and she had a part-time job there. And it was
20 easier for her to stay with us to get to work
21 than all the way where my daughter lived on
22 Sugar Grove. Because I didn't move down here
23 until in 2000 and built a house.

24 Q So we've talked a little bit about the
25 things that you've done over the years since

1 high school; right?

2 A (No audible response.)

3 Q Pretty much right out of high school, you
4 joined the Navy; correct?

5 A No, I started business school, and I
6 became 18 during that time and that made me
7 eligible for the draft. So that's when I quit
8 college and went and joined the Navy.

9 Q Okay. You were in the Navy from 1951 to
10 1955?

11 A Yes.

12 Q And while you were in the Navy, you were
13 on an aircraft carrier?

14 A Part of the time, not all the of the time,
15 part of the time. Most of the time was on a
16 carrier.

17 Q You were a machinist in the Navy?

18 A Yes.

19 Q And you took courses in machine school, I
20 think you said?

21 A Yes, that's what -- uh-huh.

22 Q And you left the Navy in March of 1955?

23 A Yes.

24 Q And from then you worked in a machine shop
25 in Tennessee; is that right?

1 A Yes, sir, in Nashville.

2 Q How long were you there?

3 A I don't remember.

4 Q Then you moved to Detroit?

5 A Yes, I moved to Detroit.

6 Q Approximately what years were you in

7 Detroit?

8 A 1955, late 1955 and 1956, came back to

9 Tennessee in '57.

10 Q When you were in Detroit, where did you

11 work?

12 A I worked for a company that was called

13 Rassey Engineering. It was a machine shop. And

14 I also worked at -- oh, gosh, I don't remember

15 that other company.

16 Q Were they both machine shops?

17 A Yes, uh-huh.

18 Q Okay. So you didn't work for Ford or

19 General Motors?

20 A No, no, no, no. I didn't work for any of

21 those people.

22 Q So you came back to Tennessee in 1957?

23 A Uh-huh.

24 Q What part of Tennessee?

25 A Down in White County.

1 Q Is there a town that is --

2 A Well, I lived out in the country, the
3 county seat, Sparta. There's a lot of little
4 towns there, Doyle, Quebeck, a lot of them
5 places like that in White County.

6 Q Did you live in White County from 1957
7 till about --

8 A Till June of 1959.

9 Q Where did you move in June of 1959?

10 A Where did I move to?

11 Q Uh-huh.

12 A Oak Ridge.

13 Q What did you do for a living in 1959 when
14 you moved to Oak Ridge?

15 A I went to work as a machinist on the Y-12
16 plant.

17 Q Okay. All right. When you were in White
18 County from 1957 to 1959, did you also work as a
19 machinist?

20 A No.

21 Q What did you do during that period of
22 time?

23 A A lot of things. I worked with an
24 electrical and plumbing contractor, drove
25 livestock trucks, several things.

1 Q Just a series of odd jobs?

2 A Yeah. Yes, uh-huh.

3 Q What prompted you to move to Oak Ridge in
4 1959 to take a job with Y-12?

5 A Tired of driving a livestock truck and
6 being gone all the time. That gets old. And
7 they were hiring machinists.

8 Q I was going to say, it sounded like a
9 pretty good fit.

10 A Yes, it was.

11 Q Can you tell me generally the kinds of
12 things you did as a machinist at Y-12?

13 A Tell you generally. Nearly all that work
14 out there is classified. And when I left out
15 there, I signed a statement that I would never
16 talk about what I did. It was classified
17 because if I did, I could be prosecuted.

18 Q I don't want that to happen.

19 A No.

20 MR. BYRNE: And I definitely don't
21 want that to happen.

22 BY MR. SHERK:

23 Q So let's -- if you're comfortable giving
24 me just a thumbnail sketch, broad overview,
25 that's fine, if you're not --

1 A Well, let me try to think how I could do
2 that without telling you exactly what I was
3 doing.

4 I guess about the best way I would
5 know to tell you about that is it was all very,
6 very close tolerance dimensional work.
7 Everything was very close tolerance. It had to
8 be made correctly.

9 Q So you were operating machines?

10 A Machinery.

11 Q That made parts?

12 A That made parts that were very precise.

13 Q And you were there from 1959 to 1994, as I
14 understand it?

15 A Yes.

16 Q Can you tell me any of the job titles you
17 had while you worked at Y-12?

18 A Well, let's see. When I hired in, I was
19 classified as a machine specialist. And then I
20 was promoted up to what they classify as a
21 standard machinist. The standard machinist is a
22 title for a journeyman machinist.

23 Q Okay. Is that a promotion from machine
24 specialist?

25 A Yes.

1 Q And that's the position that you had when
2 you retired?

3 A That's what they was hiring when I got the
4 job, and it was a better job than what I had
5 been doing.

6 Q In 1994 you retired; correct?

7 A Yes.

8 Q With a pension?

9 A With a pension.

10 Q And from 1994 to 2000, you worked from
11 time to time, if you were needed?

12 A I worked what?

13 Q From time to time, if you were called upon
14 to do so by your union?

15 A If I was called upon to do what, now?

16 Q To do so by your union?

17 A Yes. My union would tell me when to go
18 out to TVA, and Bull Run was the only place I
19 ever worked. I did work for a while for a Roane
20 County Election Commission as a voting machine
21 technician.

22 Q When was that?

23 A The last time I worked was two years ago,
24 and I think I worked six or seven years for
25 them.

1 Q When you worked for TVA, it was in
2 connection with power outages?

3 A It was -- it was in -- yeah. 2000, outage
4 was a big shutdown. I did everything, you know.
5 The others were just when they had pumps and
6 stuff that went out, and they did not have
7 enough annual people to do it, and they would
8 call us every time. I think, it works like
9 that. They called out four of us was all that's
10 called out.

11 Q And you would just go help fix stuff?

12 A When that was done, we was gone. Like I
13 said, I believe the shortest one was three days.

14 Q Mr. Worley, looking back on your entire
15 career of employment, do you ever have any
16 on-the-job injuries?

17 A Yes, one.

18 Q What was that?

19 A Got that ground with a grinding wheel.

20 Q Your finger?

21 A That fingernail. And as you can see, it's
22 got -- that's graphite that you see in there,
23 the black.

24 Q That's your left index finger?

25 A No, that's my right index finger.

1 Q Oh, yeah. That's not a good sign.

2 So that was it in terms of workplace
3 injuries?

4 A Yeah. That's the only injury I had.

5 Q Did you ever make a Workers' Compensation
6 claim?

7 A That's the one I collected on, that one
8 there.

9 Q No other suits or claims against your
10 employer?

11 A There was not a suit against that. I
12 dealt directly with the Workman Comp people, and
13 they paid me.

14 MR. BYRNE: She was just getting a
15 clarification on your previous question.

16 BY MR. SHERK:

17 Q So anyway, following up, you worked
18 directly with the Workers' Comp folks and got a
19 settlement for your finger?

20 A Yes, that's correct.

21 Q Do you believe that you were exposed to
22 hazardous substances when you worked at Y-12?

23 A Yes.

24 Q Can you tell me the kinds of substances
25 that are hazardous that you --

1 A No.

2 Q -- believe you may have been exposed to?

3 A I'm not sure I should reveal that for
4 security reasons.

5 Q When you worked at Y-12, did you have to
6 wear protective clothing?

7 A The -- my -- the clothing I wore was
8 furnished by the company, and we had clean
9 clothes every day.

10 Q Did you have to wear protective gloves?

11 A No, no. You didn't have to have any
12 protective gloves.

13 Q Did you ever have to wear a face mask?

14 A I never did.

15 Q Did you ever have to wear a respirator?

16 A No, I never did.

17 Q Is it your testimony, Mr. Worley, that
18 you, while working at Y-12, were exposed to
19 hazardous chemicals, but you can't tell me what
20 they were?

21 A I'm not sure that I could do that. That
22 might be a violation of security.

23 Q Okay. Did you ever have to wear a
24 radiation badge while you worked at Y-12?

25 MR. BYRNE: Object to form.

1 THE WITNESS: Yes.

2 BY MR. SHERK:

3 Q Did the radiation badge ever go off?

4 MR. BYRNE: Object to form.

5 THE WITNESS: The type of badge that
6 I wore was monitored every week, but it did not
7 have an alarm for me.

8 BY MR. SHERK:

9 Q When you worked at Y-12, did they have a
10 medical screening program?

11 A We had annual physicals.

12 Q What did those annual physicals consist
13 of?

14 A It was a complete physical examination.

15 Q Did this occur every year that you worked
16 there?

17 A Almost every year. And a lot of the
18 places where I worked, every beginning of your
19 weekly shift, you have to give a urine sample.

20 Q Do you know what kinds of things they were
21 looking for?

22 A No, I do not.

23 MR. BYRNE: Object to form.

24 BY MR. SHERK:

25 Q When you think about the complete

1 physical, did they -- they get your weight?

2 A Did they do what?

3 Q Did they weigh you?

4 A Yes.

5 Q Take a blood sample?

6 A Take a what, blood sample?

7 Q Did they take a blood sample?

8 A Yes.

9 Q Did they take a urine sample?

10 A Yes.

11 Q Did they check blood pressure?

12 A Yes.

13 Q Did they do a breathing test?

14 A Yes.

15 Q What kind of breathing test?

16 A You have to take a deep breath and blow
17 into something that measures like that. I don't
18 know what they call it.

19 Q Did they do chest x-rays?

20 A Yes.

21 Q Any other part of the complete physical
22 that you had every year at Y-12 that I haven't
23 touched upon?

24 A No, I don't think anything else.

25 Q Okay. Did they do an EKG?

1 A Yes, they did an EKG in your annual
2 physical.

3 Q Did they ever give you a CAT scan?

4 A No.

5 Q CT scan, they call them.

6 A What?

7 Q A CT scan.

8 A No, they never did, not out there.

9 Q As I understand it, sir, this is the only
10 lawsuit you've ever been a part of?

11 A No.

12 Q Oh, there have been prior lawsuits?

13 A Once.

14 Q What was the other lawsuit?

15 A It was to force a sale of property that my
16 mother had left my brother and I, and I could
17 never reach a settlement with his heirs, so I
18 had to force the place to be sold in White
19 County.

20 Q About when did that happen?

21 A A couple years ago, I think.

22 Q Fairly recent, then?

23 A Yes, fairly recently.

24 Q And has that lawsuit been resolved?

25 A Oh, yes, it's been resolved.

1 Q Have you ever been arrested or convicted
2 of a crime?

3 A No.

4 Q Mr. Worley, how did you get involved in
5 this lawsuit?

6 A How did I get involved in it?

7 Q Uh-huh.

8 A Well, I felt that I had been damaged by
9 the spill.

10 Q Was there a moment in time or a specific
11 event that happened that made you say, okay, I'm
12 going to get a lawyer?

13 A No. No. It was just my thoughts from
14 over a period of time there, after it happened.

15 Q Okay. Did you discuss your claims with
16 any lawyers besides the attorneys that you ended
17 up hiring?

18 A No.

19 Q Since filing this lawsuit, how often do
20 you speak with your counsel?

21 A Gosh, I don't know how many times I've
22 spoken with them and how many times it's been.
23 It's been several times.

24 Q It's not a weekly occurrence?

25 A No. I never made a record of every time

1 we spoke or had communications or whatsoever.

2 Q Do you speak with the other class
3 representatives who are a part of this case?

4 A No.

5 Q How do you keep up with the progress of
6 this lawsuit?

7 A From what communications I have with my
8 attorneys.

9 Q Phone calls?

10 A Phone calls, mail.

11 Q Any e-mail stuff?

12 A No.

13 Q Okay. Did you ever go to a presentation
14 given by a woman named Erin Brockovich?

15 A No.

16 Q Did your family members encourage you to
17 become involved in a lawsuit?

18 A No.

19 Q For example, did Ramona ever --

20 A No.

21 Q Okay. It was your decision?

22 A What?

23 Q It was your decision?

24 A It was my decision solely.

25 Q And by the time the spill occurred, your

1 wife had already passed away; correct?

2 A Yes.

3 Q Has anyone tried to discourage your
4 participation in this lawsuit?

5 A No.

6 Q Mr. Worley, you're aware that this is a
7 proposed class action?

8 A Yes.

9 Q And do you understand that you're serving
10 as a class representative?

11 A Yes.

12 Q What does being a class representative
13 mean to you?

14 A It means a group of people combined
15 together have filed a lawsuit.

16 Q What do you view as your responsibilities
17 as a class representative?

18 A What do I view as my responsibility?

19 Q Right.

20 A I don't know how to answer that. What do
21 you mean by "my responsibility"?

22 Q Sure. Are there duties or things you
23 think you should be doing on behalf of the class
24 of folks that you hope to represent here?

25 A That I need to be doing?

1 Q Yeah.

2 A Just what my attorneys would tell me to
3 do.

4 Q Have you done anything in particular to
5 prepare yourself to be a class representative in
6 this case?

7 A Other than think about what the questions
8 might be or what happened after I found out I
9 was going to be giving a deposition.

10 Q Did you investigate any properties besides
11 your own?

12 A No.

13 Q Have you spoken with any of the experts in
14 this case?

15 A No.

16 Q And I believe you said you have not spoken
17 with any of the other class representatives?

18 A No.

19 Q Have you investigated the situations of
20 other individuals that would fall within the
21 class definitions in this case?

22 A No.

23 Q Mr. Worley, would you like to take a
24 break?

25 A No, no. Go ahead.

1 Q Are you sure?

2 A I'll tell you if I need to take a break.

3 If someone else needs to, that's fine.

4 MR. SHERK: Is everybody okay?

5 MR. BYRNE: Why don't we go another
6 15 minutes, and then we'll break.

7 THE WITNESS: That's fine.

8 MR. SHERK: I don't want you to be
9 uncomfortable.

10 THE WITNESS: No, I'm doing okay.

11 (Marked Exhibit 1.)

12 BY MR. SHERK:

13 Q Mr. Worley, I've just handed you what's
14 been marked Deposition Exhibit 1, and I'll
15 represent to you that that's a copy of the
16 consolidated class action complaint that's been
17 filed in this case.

18 Do you see that?

19 A Yes.

20 Q Take a look at the names at the top of the
21 first page.

22 Do you see those?

23 A Right here, yes.

24 Q And you're one of them there; correct?

25 A That's right.

1 Q Just double check for me that you don't
2 know any of these folks.

3 A I do not know any of those other people.

4 Q So you haven't spoken with them?

5 A Haven't spoken with them.

6 Q Don't know where they live?

7 A No. I do not know any of them.

8 Q Okay. Mr. Worley, are you familiar with
9 the classes that are being proposed in this
10 case?

11 A Somewhat.

12 Q Okay. What do you understand those
13 classes to be?

14 A Class 1.

15 Q What is Class 1?

16 A I would have to go through here and look.

17 Q You can turn to page 27.

18 A Okay. The first one is property damage,
19 Class 1.

20 Q All right. Mr. Worley, did you have any
21 input in how that class was defined?

22 A No.

23 Q Okay.

24 (Marked Exhibit 2.)

25 BY MR. SHERK:

1 Q Mr. Worley, you've been handed Deposition
2 Exhibit No. 2, and I'll represent to you that
3 this is a color copy of the map that is attached
4 to the back of your class action complaint.

5 A Uh-huh.

6 Q Do you see that?

7 A Yes.

8 Q Mr. Worley, does this look to you to be
9 the geographical boundary of Class 1?

10 A Yes, it appears to be.

11 Q All right. Do you know how that boundary
12 was arrived at?

13 A No.

14 Q Okay.

15 (Marked Exhibit 3.)

16 BY MR. SHERK:

17 Q Mr. Worley, I've handed you Deposition
18 Exhibit No. 3, and I'll represent to you that
19 this is a map of the Kingston area where we have
20 superimposed the class boundaries. On this map,
21 it just has a little bit more detail on it.

22 Do you see that?

23 A Yes.

24 Q Do you see the -- the purple outline of
25 the class area on this map?

1 A Yes.

2 Q Does that look similar to the class area
3 that is depicted on Exhibit 2 to you?

4 MR. BYRNE: Object to form.

5 THE WITNESS: On this exhibit?

6 BY MR. SHERK:

7 Q Yeah.

8 A Yes, it appears to be the same.

9 Q Okay. Could you make a little dot for me,
10 sir, in red on where your house is on this map?

11 MR. BYRNE: Do you want to start with
12 a pencil before you make a permanent dot?

13 MR. SHERK: That's fine by me.

14 MR. BYRNE: Okay. Sometimes you make
15 a dot and you step back and look at it and erase
16 and start over.

17 THE WITNESS: Okay. This is the
18 Clinch River here, and this is the bridge. I
19 think -- I think it would be right here, right
20 here.

21 BY MR. SHERK:

22 Q Okay. That's about --

23 A I can look straight -- if I look straight
24 up the river right there by this bank right
25 here, I look into where the old skimmer dam was.

1 MR. BYRNE: If you're satisfied that
2 that's --

3 BY MR. SHERK:

4 Q Just go ahead and make a little dot in red
5 there where your house is.

6 A This is the bridge crossing the Clinch;
7 right?

8 Q It is, yes.

9 A Okay. So that would be Sugar Grove Valley
10 Road. It would be right in here.

11 Q All right. How long have you owned that
12 property?

13 A Since, I believe, 1966.

14 Q And did you hold it for a long time before
15 building a house?

16 A Yes. I had it ever since then.

17 Q And was your testimony earlier today that
18 you didn't build your house until 2000?

19 A I finished it in 2000.

20 (Marked Exhibit 4.)

21 BY MR. SHERK:

22 Q Mr. Worley, I'm going to show you what has
23 been marked as Exhibit No. 4, and I'll represent
24 to you that this is just a big blowup of Exhibit
25 No. 3, which you just took a look at. Do you

1 find this one to be easier to read?

2 MR. BYRNE: Mr. Worley, I think what
3 Mr. Sherk's question was, just initially, is
4 this map a little easier for you to read than
5 the smaller map, smaller type.

6 THE WITNESS: Oh, okay. Well,
7 Exit 352, okay. Yeah, okay, so that's Sugar
8 Grove Valley Road, and this comes right up into
9 here where I live.

10 MR. BYRNE: Is this map easier for
11 you to read than this map, just because of its
12 size?

13 THE WITNESS: Well, yes, it's a
14 little better here because here it shows North
15 Kentucky Street coming out. And it comes to
16 here, and then you cross the bridge out here,
17 when it reaches the bridge, it becomes Sugar
18 Valley Grove Road going up marked here.

19 So that does help.

20 BY MR. SHERK:

21 Q Okay. So it's a -- it's a little easier
22 to follow just because it's bigger?

23 A Yes.

24 Q Could you mark your house on this map
25 also, this map being Exhibit 4?

1 A I'll -- right through here, see, this
2 could not be exactly perfect because there's a
3 lot of houses up and down through here. But my
4 property is right here, right in here, right
5 before you start into this area back in here.
6 It lines up straight with this --

7 Q All right.

8 A -- out back.

9 Q Would you write "Worley House" somewhere
10 on there so we know what that little dot is?

11 A Okay. Let me --

12 Q You can do it in red, that's fine.

13 A With this?

14 MR. BYRNE: You don't happen to have
15 another copy of Exhibit 4, do you?

16 MR. SHERK: I don't.

17 THE WITNESS: Is that okay?

18 BY MR. SHERK:

19 Q That's perfect. Thank you, sir.

20 A Yes, sir.

21 Q That's great.

22 Let's go off the record just a
23 second.

24 (Off the record.)

25 BY MR. SHERK:

1 Q Mr. Worley, if you look at Exhibit No. 4,
2 the big map, do you see the class definition
3 there or the class geographical boundary?

4 A Yes. They appear to be the same as this
5 here, this one.

6 Q You're referring to Exhibit 2?

7 A Well, the same -- okay, yeah, this. The
8 boundaries appear to be -- to be the same as
9 what you've shown me in the other pictures.

10 Q Okay. Looking at this class boundary, do
11 you have any refinements or suggestions of how
12 it might be drawn differently?

13 MR. BYRNE: Object to form.

14 THE WITNESS: No. No.

15 (Marked Exhibit 5.)

16 BY MR. SHERK:

17 Q All right. Mr. Worley, I've handed you
18 what has been marked as Deposition Exhibit
19 No. 5. And I'll represent to you that this is a
20 map that we prepared that traces the flow of the
21 river of Class 2. If you look at Exhibit B, you
22 see the blue line that goes down the Emory and
23 then the Clinch and then the Tennessee River?

24 A Okay. Yeah. Here's where the Tennessee
25 is, okay.

1 Q Do you see that blue line there?

2 A Yes.

3 Q Okay. If you look at Exhibit No. 1,
4 page 27, where you were reviewing it before,
5 you'll see the Class 2 area.

6 Do you see that?

7 A Yes.

8 Q What we've tried to do is essentially just
9 trace the way that class area would follow from
10 the Kingston plant down the river.

11 Do you see that definition in the
12 Complaint on page 27?

13 A Yes, I see it.

14 Q Okay. Do you have any input into how that
15 definition -- that class definition was crafted?

16 A No.

17 Q If you would take a look at the -- the
18 residential class, or the resident class on
19 page 27 of Exhibit 1.

20 Do you see that?

21 A Yes.

22 Q What do you understand the resident class
23 to be?

24 A I would -- to me, that would be the people
25 living there.

1 Q Very good.

2 So not necessarily property owners,
3 just folks who live there; correct?

4 MR. BYRNE: Objection.

5 THE WITNESS: Well, I guess if they
6 owned property, don't live there, they would not
7 be a resident there.

8 BY MR. SHERK:

9 Q If they didn't live there?

10 A My understanding of the definition of a
11 resident is that's where you're living. If I'm
12 wrong, I'm wrong.

13 Q I think that sounds reasonable.

14 A Okay.

15 Q So this could include people that rented
16 property who lived in the area; correct?

17 A That would be a resident.

18 Q Okay. Mr. Worley, did you ever consider
19 being a plaintiff in an individual lawsuit
20 rather than a class representative in a class
21 action?

22 A No.

23 Q Why is that?

24 A Well, I just think in something like this
25 that a class action is the most efficient way to

1 do it.

2 Q How is that?

3 A Well, it -- if everybody filed a lawsuit
4 on their own, it's -- you're tied up with lots
5 of extra court hearings and things like that.

6 And everybody together, there's only going to be
7 only one court hearing and it seems to be more
8 simpler to me.

9 Q Are there claims that you are not pursuing
10 in this class action that you think you should
11 be pursuing on behalf of yourself and the class?

12 MR. BYRNE: Object to form.

13 THE WITNESS: No.

14 BY MR. SHERK:

15 Q For example, are you making a claim here
16 for emotional distress?

17 A No.

18 Q Do you feel that you have a claim for
19 emotional distress?

20 A No. I've not had any emotional problem
21 from it.

22 Q Are you making a claim for physical
23 injuries in this lawsuit?

24 A No, but I think there should be some
25 provisions that would check people's health in

1 the future to see if they have any damages.

2 Q Okay. So you'd like future testing?

3 A Yes.

4 Q But you're not claiming any present
5 physical injuries, as I understand it; is that
6 correct?

7 A No. If I have any physical injuries from
8 it, from breathing the fly ash, it's unbeknown.

9 Q Do you know a gentleman named Rick
10 Barrett?

11 A No.

12 Q He lives at 2361 Sugar Grove Valley.

13 A 23 what?

14 Q 61.

15 A Oh, yes. Yes, I know him. I didn't know
16 his last name. Rick. He recently bought that
17 property and moved in, and he's a pretty private
18 person. He has a chainlink fence around all of
19 his property, and he just will wave at you and
20 speak across from -- like that. He's not a
21 real, real sociable neighbor. But he don't
22 bother me.

23 Q Did you know that Mr. Barrett has got an
24 individual lawsuit against --

25 A No, I did not.

1 Q Mr. Barrett has claimed that he's
2 sustained an emotional distress injury as a
3 consequence of the failure of the dike.

4 Were you aware of that?

5 A No, I'm not.

6 Q Do you know Danny and Frankie Hawn?

7 A I don't believe so.

8 Q They live at 2996 Sugar Grove Valley.

9 A 2996? Where would that -- I'm trying to
10 figure out which way that would be. I'm at 59,
11 Rick's at 61. That would be going on up the
12 valley, wouldn't it?

13 Q Yes.

14 A No, I don't think I know them.

15 Q They have made --

16 A I know I don't know them.

17 Q You don't know them?

18 A No.

19 Q Okay. They have made claims in their
20 individual lawsuit for both personal injuries
21 and emotional distress.

22 Do you believe that there are peoples
23 within the Class 1 boundary who have claims or
24 who have personal injuries and emotional
25 distress claims?

1 MR. BYRNE: Object to form.

2 THE WITNESS: I don't know.

3 BY MR. SHERK:

4 Q Do you have neighbors and friends in the
5 area that have their own lawsuits against TVA?

6 A No.

7 Q Do you know any folks who have been joined
8 as part of what's called the Auchard lawsuit?

9 A No.

10 Q Have you tried to convince anybody to be a
11 part of your class action as opposed to bringing
12 their own individual lawsuit?

13 A No.

14 Q Has anybody tried to convince you to be a
15 plaintiff in a different case besides the one
16 you're in?

17 A No.

18 Q Have any of your neighbors entered into
19 settlements with TVA?

20 A I know one person that has. But he used
21 to be right next door or close to me there, and
22 he was moved up the Emory River farther. And
23 they bought his place up there.

24 Q Who was that?

25 A Mark Lennox.

1 Q He discussed his settlement with you?

2 A No. No, he did not. He just said that
3 TVA bought his house.

4 Q Do you know why you were chosen to be a
5 class representative in the consolidated class
6 action complaint?

7 A Do I know why I was?

8 Q Yes.

9 A No.

10 Q Are there certain qualities that you
11 possess that other people in the case don't
12 possess?

13 A I don't know that because I don't know the
14 other people.

15 Q Did you lobby for the position as a class
16 representative?

17 A No.

18 Q This would be a good time, I think, to
19 take a break.

20 A Okay.

21 (Recess.)

22 BY MR. SHERK:

23 Q Mr. Worley, we're back on the record after
24 a short break. I hope you're feeling fine.

25 A I'm okay.

1 Q Good. Again, just let me know if you --

2 A Okay, I will.

3 Q -- need to take a break or get a glass of
4 water or anything.

5 All right?

6 A Yes, I sure will.

7 Q There are a few things that we touched
8 upon this morning that I want to loop back to
9 before we go on to some different subject areas.

10 Okay?

11 A Okay.

12 Q First is revisiting the four years that
13 you were in the Navy. That was 1954 to 19 --

14 A 1951 to 1955.

15 Q There we go. 1951 to 1955. Now, when you
16 were in the Navy, you were on an aircraft
17 carrier; correct?

18 A For about two years.

19 Q Two of the four years?

20 A Two of the four years.

21 Q Where were you the other two years?

22 A I was stationed in San Diego and at the
23 Mare Island Shipyard near Vallejo.

24 Q When you were on the aircraft carrier, you
25 were a machinist; correct?

1 A Right.

2 Q While you were on the aircraft carrier,
3 were you exposed to solvents, other chemicals?

4 MR. BYRNE: Object to form.

5 THE WITNESS: The only chemicals I
6 was exposed to was cutting solvents, cutting
7 fluids that you used in the machines.

8 BY MR. SHERK:

9 Q How about petroleum products, that kind of
10 thing?

11 A No.

12 Q No? Paints, glues, those types of
13 substances?

14 A I was around paints all the time in the
15 Navy because the Navy is constantly painting
16 stuff.

17 Q Were you exposed to asbestos while you
18 were on the aircraft carrier?

19 MR. BYRNE: Object to form.

20 THE WITNESS: The aircraft carrier
21 had the asbestos on the steam lines.

22 BY MR. SHERK:

23 Q Did you work around the steam lines?

24 A No.

25 Q Have you ever been tested for exposure to

1 asbestos?

2 A Yes.

3 Q And what were the results of those tests?

4 A Negative.

5 Q All right. Were you exposed to munitions
6 of any kind when you were on the aircraft
7 carrier?

8 A Exposed to what?

9 Q Munitions.

10 A No.

11 Q Bombs?

12 A No.

13 Q Ammunition, that kind of thing?

14 A No, no.

15 Q An aircraft carrier is a pretty big ship,
16 isn't it?

17 A Right.

18 Q Where was the area on the ship where you
19 worked?

20 A It was in the machine shop, and it was
21 near mid-ship on the -- I believe the second
22 deck down from the hangar deck.

23 Q Is that pretty deep within the ship?

24 A Pretty deep within the ship.

25 Q Were those close quarters?

1 A No, not real close.

2 Q At any time when you worked on the
3 aircraft carrier, did you feel like you were
4 being exposed to hazardous substances?

5 MR. BYRNE: Object to form.

6 THE WITNESS: Not to my knowledge.

7 BY MR. SHERK:

8 Q All right. Did you work with propane?

9 A No.

10 Q Torches, nothing like that?

11 A No.

12 Q Okay. So you worked at the shipyard in
13 San Diego for two years?

14 A No, I was at the Naval base.

15 Q Naval base in San Diego?

16 A Yes. At the Mare Island Naval Shipyard, I
17 worked on the repair barge that had a machine
18 shop on it, down where the old World War II
19 submarines were decommissioned at.

20 Q What kinds of things did you do at the
21 Naval base for two years?

22 A What kind of what?

23 Q What kinds of things did you do at the
24 Naval base?

25 A San Diego?

1 Q Yes?

2 A The longest time I was there was going
3 through recruit training and through the
4 machinist school.

5 Q So that was in the very beginning of your
6 Naval career?

7 A That was at the very beginning.

8 Q After you graduated from machinist school,
9 what did you do?

10 A I went back to Mare Island Naval Shipyard
11 and back in to working on the repair barge that
12 was tied up down where the old submarines were
13 decommissioned at.

14 Q What kind of things were you repairing?

15 A The things that they were constantly going
16 through those submarines and removing and
17 bringing in, pumps and stuff like that that
18 would be tore down that we would be making parts
19 for and stuff like that.

20 Q So you worked on the submarines, then?

21 A No, I didn't work on the submarines.

22 Q You worked on the parts of the submarines?

23 A I worked on the parts that came off the
24 submarines, the pumps and stuff like that.

25 Q You never actually went in the submarines?

1 A No, no. That's a different classification
2 that went on board and did that.

3 Q When you were in the Navy, did you ever go
4 to Korea?

5 A We operated off of Korea and around Japan
6 in 1953 and '54, but we were never in -- never
7 went in to Korea to anchor or anything like
8 that.

9 Q Did you ever see active fighting?

10 A No.

11 Q Mr. Worley, you moved from Detroit to
12 Tennessee in 1959; correct?

13 A No, I think it was 1957. I move from
14 White County to Oak Ridge in '59.

15 Q There we go. Okay. When you moved to Oak
16 Ridge in 1959, where did you live?

17 A The first place I lived was on Tabor Road
18 in Oak Ridge. The second place I lived was on
19 Hillside Road. Then I moved to Oliver Springs.

20 Q Then you moved where?

21 A Oliver Springs.

22 Q Oliver Springs?

23 A Uh-huh.

24 Q During what years did you live on Tabor
25 Road?

1 A '59 into '60.

2 Q And you moved to Illinois Road in 1960?

3 A I moved -- in the '60s I moved to -- over

4 on Illinois Avenue.

5 Q What years did you live there?

6 A Till late 1961, and that's when I moved to

7 Oliver Springs.

8 Q How long did you live -- how do you spell

9 that, Oliver Springs?

10 A It's two words, O-l-i-v-e-r S-p-r-i-n-g-s.

11 Q How long did you live at Oliver Springs?

12 A From then until I moved down here in 2000.

13 Q From 1961 to 2000?

14 A Uh-huh.

15 Q So quite some time?

16 A Uh-huh.

17 Q Both your daughters were born while you

18 were in -- lived on Oliver Springs?

19 A No, only one, the youngest.

20 Q Heather?

21 A Heather. Ramona was born in White County,

22 Sparta, Tennessee.

23 Q You've owned your property that's the

24 subject of the lawsuit since 1966; correct?

25 A Yes. I believe that's the year I bought

1 it.

2 Q From 1966 to 2000, was it pretty much
3 vacant the whole time?

4 A No. I used it in the summer with a
5 camper, every summer.

6 Q Did you build the house yourself that now
7 sits on the property?

8 A I was the contractor for it.

9 Q Were you?

10 A I did a lot of the work that I could do
11 myself.

12 Q So until you had a house on that property,
13 you used it as kind of a vacation place to go?

14 A It was up until we retired and built the
15 permanent house.

16 Q In 2000?

17 A And then lived there permanent.

18 Q Mr. Worley, I understand your concerns
19 about your confidentiality agreement and not
20 wanting to breach that. I've spoken with your
21 counsel about that. As a legal matter, though,
22 I need to make a record about some questions
23 that I have. And believe me, you're free to say
24 that you don't feel comfortable in responding or
25 that you can't answer these series of questions.

1 But I'm going to ask you some
2 questions about substances that you were or may
3 have been exposed to while you worked at Y-12.

4 Okay?

5 A Okay.

6 Q And I gave your counsel some advance
7 notice of this.

8 A Okay.

9 Q Mr. Worley, while you worked as a
10 machinist at Y-12, were you ever exposed to
11 silica?

12 MR. BYRNE: Object to form.

13 THE WITNESS: I know what silica is.
14 I don't think so. I don't recall ever being
15 around where silica was.

16 BY MR. SHERK:

17 Q While you worked at Y-12, were you ever
18 exposed to beryllium?

19 MR. BYRNE: Object to form.

20 THE WITNESS: I don't know if I tell
21 you that, if I would be violating security or
22 not.

23 BY MR. SHERK:

24 Q So you're going to refrain from answering?

25 A I just don't want to put something in the

1 records that would be a security violation from
2 my employment down there.

3 Q And I understand that your counsel is not
4 instructing you not to answer.

5 Is that correct, David?

6 THE WITNESS: Well, I would hope --

7 MR. BYRNE: Let me respond to that
8 on the record.

9 I have not personally reviewed the
10 separation agreement that Mr. Worley entered
11 into with the government or the Y-12 facility.
12 And I haven't had an opportunity to review any
13 confidentiality agreements he entered into with
14 the government and the Y-12 facility at his
15 separation.

16 But based on the general description
17 that you've given to me, Mr. Worley, I will just
18 caution you to think long and hard before you
19 answer certain questions about your work duties,
20 workplace exposures, anything that the
21 government could interpret as conveying
22 information about classified projects,
23 construction jobs, et cetera.

24 But yes, to respond to Mr. Sherk's
25 point, I'm not instructing you not to answer

1 because I'm not familiar with those agreements
2 but, I feel, cautioning you to be very careful
3 as you approach each of his questions and try to
4 form an answer.

5 THE WITNESS: I will tell you one
6 thing that I worked on over there, which I had
7 no --

8 MR. BYRNE: Let him ask you
9 questions.

10 THE WITNESS: Okay, excuse me. Go
11 ahead. I thought we was on a question about --

12 MR. BYRNE: No, I think he was
13 talking about specific exposure.

14 THE WITNESS: Okay. I'm sorry.

15 MR. BYRNE: No, that's okay.

16 BY MR. SHERK:

17 Q We were talking about the substances which
18 you may or may not have been exposed to at Y-12.

19 And let me reask the question. Were
20 you exposed to beryllium while you worked at
21 Y-12?

22 MR. BYRNE: Object to form.

23 THE WITNESS: I have had -- can I
24 make a statement about that?

25 BY MR. SHERK:

1 Q Sure.

2 A I have been tested to see if I had any
3 beryllium in my body, and the answer in the test
4 was negative.

5 Q All right. Were you exposed to mercury
6 while you worked at Y-12?

7 MR. BYRNE: Object to form.

8 THE WITNESS: I don't think I was
9 ever exposed to any mercury over there. I think
10 everybody knows there was some mercury in the
11 plant that got into Poplar Creek, but to my
12 knowledge, I was never around where any mercury
13 was.

14 MR. BYRNE: Object to form.

15 BY MR. SHERK:

16 Q Were you exposed to magnesium while you
17 worked at Y-12?

18 A No.

19 Q Were you exposed to selenium while you
20 worked at Y-12?

21 MR. BYRNE: Object to form.

22 THE WITNESS: No.

23 BY MR. SHERK:

24 Q Were you exposed to cobalt while you
25 worked at Y-12?

1 MR. BYRNE: Object to form.

2 THE WITNESS: Not to my knowledge. I
3 don't think I was.

4 BY MR. SHERK:

5 Q Were you exposed to manganese while you
6 were at Y-12?

7 MR. BYRNE: Object to form.

8 THE WITNESS: What?

9 BY MR. SHERK:

10 Q Manganese?

11 A No.

12 Q Were you exposed to arsenic while you
13 worked at Y-12?

14 MR. BYRNE: Object to form.

15 THE WITNESS: No.

16 BY MR. SHERK:

17 Q Were you exposed to uranium while you
18 worked at Y-12?

19 MR. BYRNE: Object to form.

20 THE WITNESS: If I answer that the
21 way I think I should, it might not be truthful.

22 BY MR. SHERK:

23 Q Well, I don't want you to be untruthful.

24 A Well, I don't know --

25 MR. BYRNE: Again, I'll caution you

1 just to -- you're familiar with your agreement
2 with the government.

3 THE WITNESS: I don't want to talk
4 about anything that's a security violation over
5 there.

6 BY MR. SHERK:

7 Q I understand.

8 Were you exposed to U-235 while you
9 were at Y-12?

10 A That could be a security violation for me
11 to talk about that.

12 Q Were you exposed to U-238 while you were
13 at Y-12?

14 MR. BYRNE: Object to form.

15 THE WITNESS: That would be a
16 security violation, I think, for me to discuss
17 that.

18 BY MR. SHERK:

19 Q Okay. Mr. Worley, while you worked at
20 Y-12, did your job duties and responsibilities
21 cause you to be exposed to hazardous substances?

22 MR. BYRNE: Object to form.

23 THE WITNESS: Probably so.

24 BY MR. SHERK:

25 Q Okay. Can you tell me what those

1 substances were?

2 A No.

3 Q Again, is that a national security concern
4 you have?

5 A Right.

6 Q You mentioned that you did not wear a face
7 mask or a respirator while you were working at
8 Y-12; correct?

9 A That was not required for me to work.

10 Q Did others that you worked with wear face
11 masks or respirators?

12 MR. BYRNE: Object to form.

13 THE WITNESS: Yes, there was other
14 people that were doing jobs that they had to
15 wear a respirator.

16 BY MR. SHERK:

17 Q Were they doing your job?

18 A No.

19 Q Over the period of time that you worked at
20 Y-12, did the protective measures that you had
21 to take as an employee there change?

22 MR. BYRNE: Object to form.

23 THE WITNESS: Yes. It has changed
24 over that time frame.

25 BY MR. SHERK:

1 Q In what respect?

2 MR. BYRNE: Object to form.

3 THE WITNESS: I guess you would say a
4 lot more carefulness and watching about stuff,
5 the things -- for example, when I worked there,
6 you could smoke in the working areas; now you
7 can't. A lot of things like that.

8 BY MR. SHERK:

9 Q So there was a heightened sensitivity to
10 the exposures to which employees might be
11 exposed to while at work?

12 A It would be for safety precautions.

13 Q Did the kinds of protective clothing that
14 you had to wear change over time while you
15 worked at Y-12?

16 MR. BYRNE: Object to form.

17 THE WITNESS: Not in the places that
18 I worked, it didn't change. It's basically the
19 same.

20 BY MR. SHERK:

21 Q Are you a member of the Exposed Workers
22 Program?

23 MR. BYRNE: Object to form.

24 THE WITNESS: What is it? What do
25 you mean, a workers program?

1 BY MR. SHERK:

2 Q Have you ever been contacted to be a part
3 of what is called the Exposed Workers Program
4 from Y-12?

5 A No. I have been through the medical
6 screening that is available to people that
7 worked at Y-12, if you're familiar with that.

8 Q We talked a little bit about that, I
9 think, this morning.

10 A No, not the medical screening.

11 Q What is the medical screening?

12 A It's a program that is funded by the
13 government for workers that have medical
14 problems from being there and they screen you to
15 see if you have any health problems from having
16 worked in the plants. And if you have, there
17 has been compensation for those people.

18 Q Are you a part of that medical screening
19 program?

20 A I've been through it.

21 Q And what were the results of that program?

22 A Everything was negative.

23 Q When were you tested as a part of that
24 medical screening program?

25 A When was I tested?

1 Q Yes.

2 A I'm going to say probably three or four
3 years ago.

4 Q Okay. Maybe 2006, 2007, something like
5 that?

6 A Yeah, probably somewhere there. I don't
7 remember all of the dates. I had two follow-ups
8 from it of going through the skin thing, because
9 when I went through it, they found I had a
10 couple small nodules in one of my lungs, and
11 they wanted to follow up and watch them for
12 about 18 months.

13 Q What tests were you given as a part of the
14 medical screening program?

15 MR. BYRNE: Object to form.

16 BY MR. SHERK:

17 Q What tests were you given?

18 A What tests?

19 Q Yes.

20 A It was a complete physical examination
21 that was done -- it was done in Oak Ridge at, I
22 think, Fort Sanders. There were several places
23 you could go: UT for that part, but for the
24 body scan, you had to go back to -- that scan is
25 sitting stationary in Oak Ridge over at the --

1 where the Atomic Trace Labor Council Building
2 is. And it's run by Queen College out of
3 New York.

4 And so the first thing you did is
5 you went through that complete physical. They
6 drew blood, x-rays, had you blow in that thing
7 about your lungs and all that stuff, and then
8 after that, then they put you through that body
9 scan.

10 Q Okay. Do you remember any of the names of
11 the physicians from Queens College that were
12 administering the program?

13 MR. BYRNE: Object to form.

14 THE WITNESS: No, I don't know who
15 those people were.

16 BY MR. SHERK:

17 Q Were you given what's called an LDCT scan?

18 MR. BYRNE: Object to form.

19 THE WITNESS: What kind of scan?

20 This was -- what I had was a complete body scan
21 that they scanned everything in your body.

22 BY MR. SHERK:

23 Q They put you in a big machine with a whole
24 hole in it?

25 A Yes, uh-huh.

1 Q It's like a big donut?

2 A Yes, uh-huh.

3 Q Was that done once?

4 A That was done three times.

5 Q After the first time, did they find

6 nodules in your lungs?

7 A That's when they found the nodule.

8 Q So you went back for two repeat scans?

9 A Uh-huh.

10 Q Were you released then after --

11 A Yes.

12 Q -- the second scan?

13 A They said that nodules were the same and

14 they were smooth. They hadn't grown or

15 anything, and so I was released.

16 Q Okay. Do you know the names of the

17 physicians that participated in this medical

18 screening program that occurred in about 2006 or

19 2007?

20 MR. BYRNE: Object to form.

21 THE WITNESS: No.

22 BY MR. SHERK:

23 Q And the medical screening program took

24 place after you had retired; correct?

25 A Oh, yes, uh-huh.

1 Q Besides the medical screening program that
2 we just talked about, have there been other
3 instances in which you've received medical care
4 of any kind from your prior employer, Y-12?

5 MR. BYRNE: Object to form.

6 THE WITNESS: No.

7 BY MR. SHERK:

8 Q Who was your employer at Y-12?

9 A I started out it was Union Carbine, Martin
10 Marietta, Lockheed Martin. They were all over
11 the world contractors for the Department of
12 Energy.

13 Q Are you a member of a union?

14 A Yes.

15 Q What union is that?

16 A International Association of Machinists
17 and Aerospace Workers.

18 Q Mr. Worley, the medical screening program
19 that you were a part of in 2006 or 2007, was
20 that put into place by your prior employer or by
21 the union?

22 MR. BYRNE: Object to form.

23 THE WITNESS: That was put in place
24 by the Department of Energy.

25 BY MR. SHERK:

1 Q Okay. So it was a DOE program?

2 A It's a DOE program. The program first
3 started for the Paducah and for the K-25 plant,
4 and Senator McConnell in Kentucky is the one
5 that actually got it funded to start with. And
6 then it was expanded to cover Y-12 and X-10.

7 MR. SHERK: I need to make a brief
8 statement on the record that there have been
9 certain questions that Mr. Worley has not felt
10 comfortable answering because of his concerns
11 about his confidentiality agreement with his
12 prior employers involving Y-12.

13 It may be that after serious
14 consideration, the defendants will have to seek
15 guidance from the Court as to whether or not
16 that information can be obtained under seal or
17 by some other means. And I just need to -- to
18 let the record reflect that we lodge that
19 statement, and perhaps it's in the form of an
20 objection as well to the refusal to answer.

21 But nevertheless, it's now a matter
22 of record, so we'll move on.

23 David, if you have anything to say?

24 MR. BYRNE: No, not at this time.

25 BY MR. SHERK:

1 Q Let's shift gears a little bit,
2 Mr. Worley.

3 Let's talk about the failure of the
4 dike on December 22, 2008. Okay?

5 When did you first hear about the
6 dike failure?

7 A I believe in the news the next day.

8 Q On the television?

9 A Uh-huh.

10 Q Did you hear anything that night?

11 A No.

12 Q Can you see the Kingston facility from
13 your house?

14 A From my -- oh, from my house, I can see
15 the stacks and all that, you know, but I can't
16 see the buildings. Like I told you, if I look
17 straight up the Emory River, then I can see the
18 old skimmer dam.

19 Do you know what that is?

20 Q Yes.

21 A Okay. I can see the skimmer dam right
22 where the river bends.

23 Q Let's get that big map out again.

24 A Of course it doesn't exist now.

25 Q Mr. Worley, let me give you this blue pen

1 and would you draw on this map, Exhibit 4, the
2 way that you look toward the Kingston facility
3 that you just described?

4 A You can look this way. If I look this
5 way, I'll see the smoke stacks.

6 Q Go ahead and mark that with an arrow.

7 And when you're looking toward the
8 smoke stacks, which direction are you looking?
9 Would it be west?

10 A It would be, I guess -- let's see, this is
11 north. I would be looking west.

12 Q And if you look up, as you said, the Emory
13 River --

14 A Uh-huh.

15 MR. BYRNE: Counsel, can I just get a
16 quick clarification?

17 MR. SHERK: Sure.

18 MR. BYRNE: Is this map aligned with
19 compass points? I wanted to make sure -- okay.

20 THE WITNESS: This does not really
21 show the old skimmer dam that was right in --
22 right in here. It laid more like this,

23 BY MR. SHERK:

24 Q You can go ahead and draw it.

25 A And that was where the water was going

1 into -- you know, into the plant.

2 Q You can -- you can draw that in if you
3 would like to.

4 A Well, you know, it was right in here. And
5 I could see that. It was on sort of an angle.
6 I guess this is what that is supposed to be
7 right there, is what was the skimmer dam, the
8 concrete where the water went into the plant.

9 Isn't that correct?

10 Q Yeah. Why don't you just draw a little
11 dotted line right where the skimmer dam was?

12 A Okay. I could see that.

13 Q From your property?

14 A From my property.

15 Q And you would be looking kind of northwest
16 up the Emory?

17 A That would have been northwest. Of
18 course, all this in here is just timber and
19 stuff like that, right down through here.

20 Q Okay. When you heard about the failure of
21 the dike the next morning, what did you do?

22 A Went down to look at my boat dock --

23 Q What --

24 A -- and everything down there.

25 Q What did you find when you went down

1 there?

2 A I found some -- on the bank some trash and
3 stuff that I assume had -- because the water was
4 down. And I assumed it had washed up from the
5 force of the spill.

6 Q Anything else?

7 A Not then. Later I saw some fly ash on my
8 dock. And my dock was not damaged.

9 Q Within the first week after the dike
10 failure, what kind of things did you do?

11 A Nothing, other than I made several trips
12 down there to look at -- just to look around.

13 Q More trips to the dock?

14 A What?

15 Q Or trips to the facility?

16 A I was up and down there several times.

17 Q I'm sorry?

18 A I said I was up from my house down to my
19 dock several times over that time frame. And,
20 you know, and just looking at what was -- what I
21 could see down there, and after the water had
22 receded, there was a lot of the ash landing on
23 the land down there in the bottom of the lake --

24 Q Okay.

25 A -- after the water went down.

1 Q Within the first two or three weeks after
2 the spill at the Kingston facility, did you
3 actually go to the facility itself to inspect?

4 A You mean up here, where the actual ash --
5 where the fly ash was stored up here?

6 Q Correct.

7 A No.

8 Q Have you ever been over there since the
9 spill?

10 A Oh, I've been over through there, yes,
11 because I have some friends way back up on Swan
12 Pond Road that I visit a lot.

13 Q Who are they?

14 A What?

15 Q Who are they?

16 A Bill and Jeri Vermillion.

17 Q Are they involved in litigation? Do you
18 know?

19 A I think they are, but I don't know if it's
20 this particular lawsuit or not. I know that
21 they had -- because they have had people over
22 there getting up fly ash off of their land and
23 off their chairs and stuff to check it.

24 Q Okay. In the first three months after the
25 spill, did you receive any instruction from TVA

1 or the EPA or the Tennessee Department of
2 Health?

3 A Any instructions? What do you mean by
4 instructions? To do anything or not do
5 something?

6 Q Correct.

7 A No.

8 Q For example, did you receive any
9 information about the safety of the drinking
10 water following the spill?

11 A Not that I recall.

12 Q Do you recall receiving information -- any
13 information about changing your air filters
14 following the spill?

15 A No.

16 Q Have you continuously lived at your home
17 since the spill on December 22, 2008?

18 A Yes.

19 Q Never moved?

20 A Never moved.

21 Q Okay. Did you ever leave temporarily?

22 A No.

23 Q What relief or damages are you seeking in
24 this lawsuit?

25 A The damages from the devaluation of my

1 property.

2 Q Have you got a dollar figure in mind --

3 A No.

4 Q -- that would seem appropriate?

5 A No, not at this time.

6 Q Mr. Worley, if you look at page 1 of
7 Exhibit 1, that's the consolidated class action
8 complaint, there's a paragraph that's numbered
9 paragraph 2. Do you see that on the first page?

10 The second sentence of paragraph

11 No. 2 reads:

12 "Plaintiffs George
13 Chesney, Virgil Maines, Patricia
14 Cordell, and Donald Simon also
15 seek the establishment of a fund
16 by defendants for medical
17 monitoring of members of the
18 proposed resident class or, in
19 the alternative, the
20 establishment of a supervised
21 medical monitoring program."

22 Did I read that correctly?

23 A I think you did.

24 Q Okay. I noticed that you are not among
25 these class representatives who are seeking

1 medical monitoring. Were you aware of that?

2 A Not until I read this.

3 Q Are you seeking medical monitoring for
4 yourself in this lawsuit?

5 A I think there should be something set up
6 for that, but right now, I do not feel that I
7 have any health problems from it. If I felt I
8 had health problems, then I would want to seek
9 damages.

10 MR. BYRNE: Counsel, if it helps, let
11 me just state for the record that the omission
12 of Mr. Worley from that sentence of the second
13 paragraph was an error. That's not an
14 intentional omission.

15 MR. SHERK: Okay. I just wanted to
16 clear that up.

17 Q Mr. Worley, I didn't know if you had
18 chosen not to seek medical monitoring on behalf
19 of yourself or the class or whether it was just
20 a mistake in the drafting. It sounds like
21 that's what it was, a mistake?

22 A Yes.

23 Q Okay. Mr. Worley, you bought your
24 property in 1966; correct?

25 A I think that's the year.

1 Q And that's the property that's the subject
2 of this lawsuit; correct?

3 A Yes.

4 Q And for many years, it sounds as if you
5 used that property for vacation and recreational
6 purposes?

7 A Yes.

8 Q You would put a trailer on the property in
9 the summer?

10 A Uh-huh.

11 Q Did you take your kids there?

12 A What?

13 Q Did you take your children there when they
14 were growing up?

15 A Yeah, our kids went down there until they
16 went out on their own.

17 Q How long have you had a dock on the
18 property?

19 A I would say, probably, '68, '69, right in
20 there. One dock washed out, and I got a permit
21 and redid it.

22 Oh, and -- and back when I was
23 talking about the camper, I also built a utility
24 building on it, had a septic tank system put in
25 and utility water to have a bathroom.

1 Q And as I understand it, you completed
2 building your house on the property in 2000?

3 A Uh-huh.

4 Q And you served as the general contractor
5 on that project?

6 A Yes.

7 Q How many years did it take to build your
8 house?

9 A I started it in -- I started late '95,
10 early '96.

11 Q So it took a number of years to build your
12 house?

13 A Yes.

14 Q When did you build the second house on
15 your property?

16 A Which -- what do you mean, the second
17 house?

18 Q Well, there's a -- it looks as if there is
19 a main house --

20 A What?

21 Q -- main house on your lot closer to the
22 water and then a separate building behind it?

23 A On the side of it. That's the one I just
24 told you that I built back years ago when I got
25 utility water and put in a septic system and put

1 it in in a manner where I could be able to use
2 it. And we used that -- we had a bathroom in
3 that for when we were down there with the
4 camper.

5 MR. BYRNE: You get the one with the
6 sticker on it.

7 (Marked Exhibit 6.)

8 BY MR. SHERK:

9 Q You've got the important one.

10 Mr. Worley, you've been handed
11 deposition Exhibit No. 6, and I'll represent to
12 you that that is an aerial photo of your
13 property taken on January 9, 2009.

14 Do you see that, sir?

15 A Yes, I see it.

16 Q Can you identify your lot on that
17 photograph?

18 A Yes.

19 Q Go ahead and circle that in blue, the blue
20 Sharpie you have there.

21 A How do you mean to circle it? Right here
22 it is.

23 Q Go ahead and circle the main house. And
24 that's the house that was completed in 2000;
25 correct?

1 A Uh-huh.

2 Q Where is the out building that you talked
3 about?

4 A That's this little building right here, on
5 the side right here.

6 Q Okay. And that was the building that you
7 originally built?

8 A That was the building that I built to have
9 a bathroom, so when we went down there with the
10 camper we'd have facilities for a bathroom.

11 Q On that Exhibit No. 6, there is a building
12 back behind the main house closer to the road.

13 Do you see that?

14 A That's my eldest daughter's.

15 Q That's your daughter Ramona's house?

16 A Uh-huh.

17 Q When was that house constructed?

18 A I told you about 15, 16 years ago.
19 Something like that.

20 Q You had that built?

21 A She had that built. It was a modular
22 home. She had it put in there. I gave her
23 permission to do that.

24 Q Okay. Very good. Since the spill
25 occurred in -- on December 22, 2008, who has

1 lived with you in your house?

2 A Nobody.

3 Q Just you?

4 A Just me.

5 Q Since the spill, who has lived in the

6 modular house?

7 A My daughter.

8 Q Ramona?

9 A Uh-huh.

10 Q At any point in time did her daughter live

11 there as well?

12 A She -- yes, she lived there for a while.

13 And I can't tell you the exact years. Like I

14 said, I believe it was '99 when my granddaughter

15 graduated from Oliver Springs High School. I

16 think that's correct. And she lived with her

17 mother part of that time and some of the time,

18 when she went to -- when she was a senior, she

19 got a job at Kroger's part-time, and during

20 school days where she would stay in Oliver

21 Springs with me and my wife.

22 Q Okay. Did Ramona pay for her house?

23 A Yes.

24 Q Does she have any legal interests in the

25 property that her house sits on?

1 A No.

2 Q You own that?

3 A I own it.

4 Q Did she give you any money as -- because
5 you allowed her to put a house on the property?

6 A No.

7 Q Mr. Worley, do you own a second home?

8 A Do I own a second home?

9 Q Uh-huh.

10 A No.

11 Q Have you ever rented or leased your house
12 to anybody since the spill?

13 A No.

14 Q Okay. How was it in 1966 that you chose
15 to purchase this particular parcel of land?

16 A How was --

17 Q What made you decide to purchase this
18 particular parcel of land?

19 A Okay. I'm going to try to answer that in
20 maybe kind of a long, like, statement.

21 When I came here -- before I came
22 here, ever since I was young, I had always had
23 access to water. My dad took me fishing and I
24 loved to fish. After I got out of the Navy and
25 came back, I got interested in water skiing and

1 boating. And when we moved here, we were doing
2 that. When we were in Oak Ridge, we were going
3 to Norris Lake and coming down.

4 And I just happened to find out
5 that -- there was property available down there.
6 And by purchasing that property, that gave me an
7 easy access to get into the water. I had
8 already fished the Emory River up around the
9 Sportsman Club and places like that. And I knew
10 I could have a boat dock, and so that's why I
11 bought the property.

12 Q Did you buy directly from TVA?

13 A No.

14 Q No?

15 A That property was sold off -- I believe
16 that was a man by the name of Coker owned that
17 big farm over there, and it was sold off. And a
18 man that I know had bought two or three lots in
19 through there. And he was wanting to sell them,
20 and I bought one of them.

21 (Marked Exhibit 7.)

22 BY MR. SHERK:

23 Q Mr. Worley, I'm handing you Exhibit No. 7,
24 and I'll represent to you that that's a
25 photograph that was taken on July 21, 2010. Can

1 you tell me what this photograph depicts.

2 A Tell you what?

3 Q Can you tell me what this photograph
4 shows?

5 A It is showing my house and the little
6 building that I told you I built originally, it
7 shows it. And it shows the little cabin that's
8 over on the next lot down from me. And it's
9 showing the chainlink fence of the guy, Rick,
10 whatever his last name was.

11 Q Your -- your neighbor that's not the most
12 sociable guy in the world?

13 A No, now, he's not rude or anything like
14 that. He's just very, very private. He came
15 here from California, and I -- I would imagine
16 he lived in a city, and you know how -- and, you
17 know, you see him out when he's mowing the yard
18 or I'm mowing my yard, and he will speak and
19 something. We'll have a conversation across the
20 fence.

21 But he stays in his house most of
22 the time because he works out of his home doing
23 something.

24 Q Okay. Is that a little -- a little
25 covered area between your house and the river?

1 A That is -- is that -- that little building
2 right there has a deck on the back of it, has a
3 nice little cover over the deck.

4 (Marked Exhibit 8.)

5 BY MR. SHERK:

6 Q All right. Mr. Worley, you've been handed
7 Exhibit No. 8, and I'll represent to you that
8 this is another photograph taken July 21, 2010.

9 What does this photograph show?

10 A That shows my mailbox and my daughter's
11 mailbox up by the road. And that shows my
12 daughter's house on it. And it also shows the
13 fence, and it shows Rick's house over here.

14 Q So that squarish white house is Ramona's
15 house?

16 A That's right.

17 Q This is a view from the road looking down
18 your lot toward the water; correct?

19 A Yes, uh-huh.

20 Q And you can't see your house from this
21 view, can you?

22 A Because of the trees.

23 Q There's a big clump of trees between your
24 house and Ramona's house, it looks like?

25 A Uh-huh.

1 (Marked Exhibit 9.)

2 BY MR. SHERK:

3 Q Mr. Worley, I just handed you another
4 photograph labeled as Exhibit 9. What -- also
5 taken on July 21, 2010.

6 What does this photograph show?

7 A It shows my boat dock and my boat, and you
8 can partially see my house up through the trees
9 there.

10 Q Is this the only boat that you own right
11 now?

12 A That's the only.

13 Q What kind of boat is it?

14 A It's a 20-foot runabout.

15 Q Do you still get out in that boat from
16 time to time?

17 A From time to time.

18 Q Is it a fishing boat or a skiing boat?

19 A I guess you would call it a -- it's called
20 a runabout. You can ski behind it, and if you
21 want to still fish, you can still fish out of
22 it.

23 Q You could do both then?

24 A But I don't -- my fishing boat I sold some
25 time ago, but I have -- I haven't fished in the

1 Emory since before the spill.

2 (Marked Exhibit 10.)

3 BY MR. SHERK:

4 Q Mr. Worley, you have been handed Exhibit
5 No. 10. That is another photograph taken
6 July 12 of 2010.

7 What does this photograph show?

8 A It just shows my empty dock.

9 Q Okay. Was your boat in storage at that
10 time, or maybe you were just out on the lake or
11 the water?

12 A July 12. And I don't know what this is to
13 the side of it there.

14 Q Looking at that little white craft?

15 A I don't know what that is. That's not
16 mine. I don't know what that is. Oh, July 12,
17 what day of the week was that? Anybody have a
18 calendar?

19 MS. STENNES: Thursday.

20 THE WITNESS: What?

21 BY MR. SHERK:

22 Q Thursday.

23 A I don't remember what date I put my boat
24 in the water. The 21st it's sitting there.

25 MS. STENNES: No, I'm wrong. It's

1 not a Thursday.

2 THE WITNESS: I honestly don't
3 remember the date I put my boat in the water.

4 MS. STENNES: July 12 was on a
5 Monday.

6 MR. BYRNE: It was a Monday.

7 THE WITNESS: 12th was on a Monday?

8 MR. BYRNE: Yes, July 12 was.

9 THE WITNESS: That must have been
10 before I put my boat in the water, then, because
11 the only times I've been out on my boat has been
12 on the weekend this year.

13 BY MR. SHERK:

14 Q Okay. Now, if you're not out in your
15 boat, is it usually just raised up like it shows
16 in Exhibit 9?

17 A It has an electric winch, yes. See,
18 that's some of the convenience of owning
19 properties that adjoins the water -- or adjoins
20 the land that adjoins the water.

21 Q Let's talk a little bit about the house
22 that you own on your property. Okay?

23 The house is depicted in Exhibit 7.

24 A Which one?

25 Q You could see the back of it, yeah, in

1 Exhibit 7.

2 Is that a two-story house?

3 A Yes.

4 Q Okay. What is it constructed of?

5 A I don't know exactly what you mean by what
6 it's constructed of.

7 Q Is it a brick house?

8 A Yes, it is a brick house.

9 Q Any wood shingles on it?

10 A Any wood shingles?

11 Q Uh-huh.

12 A No.

13 Q Any stucco?

14 A No.

15 Q All brick?

16 A All brick.

17 Q How many floors does your house have?

18 A Two.

19 Q About how many square feet?

20 A It will be a little over 3,000. If you
21 take the basic house, it's 3,000 square foot,
22 and then the attachment between the house and
23 the garage, which is kind of like a utility room
24 with a washer and dryer, have some shelving for
25 storing stuff. And I don't know the exact size

1 of it.

2 Q How many bedrooms does your house have?

3 A Three.

4 Q How many bathrooms?

5 A Two. Two full baths.

6 Q Okay.

7 A And one bath that has a commode and
8 lavatory only.

9 Q Half bath?

10 A Half bath.

11 Q It does not have a pool?

12 A Swimming pool?

13 Q Uh-huh.

14 A No.

15 Q Does it have a basement?

16 A Yes.

17 Q What is the foundation made of?

18 A The foundation -- you mean the walls of
19 the basement?

20 Q Correct.

21 A Concrete blocks.

22 Q Have you ever had your house tested for
23 radon?

24 A No.

25 Q It looks as if you do have kind of a patio

1 or porch area on the back of the house looking
2 at the water?

3 A Yes.

4 Q How big is that?

5 A It's -- I believe it's 10 foot wide and
6 goes the full width of the house.

7 Q Are your windows original with the house?

8 A Yes.

9 Q Are they still in good shape?

10 A Yes.

11 Q So they fit tightly?

12 A Yes.

13 Q Do you have central air conditioning?

14 A Yes.

15 Q Have you had that since you built the
16 house?

17 A Yes.

18 Q Okay. Any air -- any window units in any
19 of your rooms?

20 A No.

21 Q What type of flooring do you have in your
22 house?

23 A Well, the flooring, the basement, of
24 course, is concrete. The upstairs is carpeting.

25 Q Do you have any hardwood?

1 A Only in the entrance upstairs, the
2 entrance -- main entrance is upstairs. The
3 entrance up there has hardwood in for, you know,
4 maybe about 8 foot or something like that.

5 Q It's decorative hardwood?

6 A What?

7 Q Decorative hardwood floor?

8 A Yes. Individual pieces, you know.

9 Q Like a parquet floor?

10 A No, not a parquet. It's hardwood that are
11 about this wide, you know, tongue and groove.

12 Q Uh-huh. Okay. What is the source of
13 water for your house?

14 A It comes from the Cumberland Utility
15 District.

16 Q Cumberland Utility?

17 A Uh-huh.

18 Q Do you have any home improvement projects
19 planned for your house?

20 A Not at this time.

21 Q Have you ever run a business out of your
22 home?

23 A No.

24 Q Let's talk about your daughter's house.

25 That was placed on the property 15

1 years ago?

2 A 15, 16 years ago. About something like
3 that. I know it's over 15 years.

4 Q And that was a prefab house?

5 A Yeah, it was a modular home. I believe it
6 was built by Clayton's. I'm not sure.

7 Q Do you spend much time in there?

8 A At her house?

9 Q Uh-huh.

10 A Oh, I usually see her once or twice a day.

11 Q Does she mainly come to your house?

12 A Not necessarily. We -- it's not mainly we
13 do either one of the two. You know, it's
14 just -- if she wants something or just wants to
15 come see me, you know, she comes down there. If
16 she don't, or you know, usually I walk and get
17 the mail and I'll pick her mail up when I do
18 mine, you know.

19 Q Do you know how much she paid for the
20 modular house?

21 A No, I do not.

22 Q Is that one of those houses where a truck
23 comes and just puts it down on a concrete slab?

24 A It's set on a concrete foundation.

25 Q Doesn't have a basement or anything like

1 that?

2 A No. No, no.

3 Q Have you ever used your property for any
4 kind of agricultural use?

5 A No.

6 Q Never had crops on the property?

7 A No.

8 Q How many -- how many acres is it?

9 A Do you have that thing that shows property
10 assessment, how many acres it is?

11 MR. BYRNE: I do. I think Mr. Sherk
12 has it as well.

13 MR. SHERK: I probably have it
14 someplace.

15 MR. BYRNE: Again, I'd just caution
16 you that you need to testify based on your
17 present memory, and to the extent Mr. Sherk
18 wants to try to refresh your memory with a
19 document, that would be up to him.

20 Believe me, I'd love to do it, but
21 Mr. Sherk will get mad.

22 THE WITNESS: I look at my property
23 assessment and stuff, you know, when I pay
24 property taxes, and for some -- about the only
25 thing that sticks in my mind seems like it's

1 something close to two acres. That could be --
2 you know, but I don't know if that's exactly
3 correct or not.

4 (Marked Exhibit 11.)

5 BY MR. SHERK:

6 Q Mr. Worley, you've been handed Deposition
7 Exhibit No. 11. And I'll represent to you that
8 this is a photograph that was taken January 9,
9 2009. We have superimposed the tax parcel
10 boundary for your property on this photograph.

11 Do you see the orange outline?

12 A I see it.

13 Q Does that look to you to be representative
14 of the shape and size of your lot?

15 A Yes. But it is not correct, based on the
16 plot that I have from when it was originally
17 laid out. It does not have a loop like that in
18 it. That line down by the lake goes straight,
19 the property line is.

20 Q Oh, the property line is straight, okay.

21 So your lot is -- it's very long and
22 thin; is that correct?

23 A Uh-huh.

24 Q And that's how it was originally offered
25 for sale?

1 A Yes.

2 Q And it's about two acres, you said, around

3 that?

4 A That's what I'm going to guess. Like I

5 said, I'd have to look at it -- the property

6 appraisal, how much land is.

7 Q I'll try to dig that up at lunch.

8 A I think it's -- I want to say something

9 like about two acres. That sticks in my mind.

10 Q So you've never run a business on this

11 property?

12 A No.

13 Q Never had any crops on it?

14 A No.

15 Q How about any livestock like cows or

16 horses?

17 A No.

18 Q Sheep or llamas?

19 A What? No.

20 Q Okay. Do you have pets?

21 A What?

22 Q Pets.

23 A Yes. Well, they're -- I guess you'd

24 classify them pets. I have some bird dogs.

25 Q Are you a hunter?

1 A Yes.

2 Q How many dogs have you got right now?

3 A I've got three.

4 Q Have you had them since the spill?

5 A What?

6 Q Were they at your property at the time of

7 the spill?

8 A Yes.

9 Q And even before then?

10 A Yes. They've been down there ever since I

11 moved down there.

12 Q Since 2000. What are their names?

13 A One is named Riley, and one is named

14 Wheel, and the other one is named Becky. Riley

15 is real old. He can't be hunting no more.

16 Q How did Wheel get his name?

17 A Because of his -- just the way he would

18 run in the field.

19 MR. BYRNE: Do they run close?

20 THE WITNESS: No.

21 MR. BYRNE: No.

22 THE WITNESS: No. Those are not

23 close running dogs. I can make them be thataway

24 with electric collars.

25 MR. BYRNE: Must be pointers.

1 THE WITNESS: No, they're setters. I
2 had a lease on a ranch out in Texas where I bird
3 hunted.

4 BY MR. SHERK:

5 Q And you took them out there with you?

6 A Took them out there, so big running dogs.

7 Q Do you have a kennel for them on the
8 property?

9 A Yes. I think you ought to be able to see
10 it. No, you can't, because of -- of these trees
11 here. Yes, I have a kennel, concrete, chainlink
12 fence.

13 Q Is the dog kennel between your house and
14 your daughter's house?

15 A Yes. It's somewhere right in through
16 here, but this tree right here is kind of
17 blocking the view of it. But it's right along
18 in here.

19 Q Okay. How would you compare your property
20 to the houses next to you?

21 A What do you mean? In value?

22 Q Yeah. Is it better maintained? Bigger?

23 A Well, on this side right here, you'll
24 see -- on this side, this little cabin and all
25 this is not maintained at all.

1 Q That would be the south side?

2 A Okay. Yeah. The guy, Rick, over here on
3 this side, he keeps his well maintained. The
4 other people keep theirs well maintained.

5 Q Do you think your house is, you know,
6 right in there in terms of value with those of
7 your neighbors?

8 A Well, I would say it's more valuable than
9 the little old cabin over there. Rick's house
10 is a lot bigger and larger, but it's not brick,
11 so I don't know what the value is. Usually
12 brick is considered more valuable than a
13 vinyl-sided house and everything.

14 Q Let me ask you this: In all the places
15 you have lived during the course of your life,
16 have you ever lived by a manufacturing plant of
17 any kind?

18 A No.

19 Q Have you ever lived by a chemical plant?

20 A No.

21 Q Have you ever lived by an oil refinery?

22 A No.

23 Q How about a plant that makes paint or
24 plastics?

25 A No.

1 Q You have worked by a shipyard during the
2 time you were at the Navy?

3 A Uh-huh.

4 Q That was for a two-year period?

5 A Probably around -- no, less than two
6 years.

7 Q Have you ever lived near an automobile
8 plant?

9 A Yeah, when I was in Michigan.

10 Q Okay. That was for a year or so?

11 A Uh-huh.

12 Q Okay. What -- what manufacturing plant
13 was that?

14 A There was two, Dodge --

15 Q Dodge?

16 A Then it was called the Dodge main plant,
17 and the old Packard plant.

18 Q Were they in close proximity to your
19 house?

20 A No, not real, real close, a few blocks or
21 so away.

22 Q Have you ever lived on or near a landfill?

23 A No.

24 Q Have you ever lived by a waste treatment
25 facility?

1 A No.

2 Q Okay. Would you say that your area in
3 Detroit where you lived was an industrial area?

4 A Well, a lot of Detroit was industrial.
5 Right down where I lived, it was mostly
6 residential apartment buildings. I lived in an
7 apartment building -- apartment buildings,
8 residential houses, stuff like that.

9 Q Were you married then?

10 A Yes.

11 Q Have you ever lived in a rural farming
12 area?

13 A That's where I grew up.

14 Q Where was that again?

15 A In White County.

16 Q Was your dad a farmer?

17 A Yes.

18 Q What kind of crops did he grow?

19 A Corn and tobacco. And he also worked at
20 Public Works.

21 Q Okay. Were you exposed to pesticides,
22 herbicides or fertilizers as a child growing up
23 in -- on your family farm?

24 A We fertilized and we dusted -- I up-dusted
25 tobacco when it was growing. And back then,

1 they didn't have any way, you know, like to
2 spray for tobacco worms. After the tobacco got
3 up so high, we had to go in there and hand pull
4 them off the plant and throw them on the ground
5 and stomp on them.

6 Q Worms on the tobacco plant?

7 A Yes. Yeah, tobacco worm, yes.

8 Q Was it ripe tobacco?

9 A It was early tobacco.

10 Q Early. Do you know what the dust was that
11 you put on the tobacco plants?

12 A No, I do not know what -- it was a powder
13 dust. I don't know what it was.

14 Q Some kind of insecticide?

15 A Yeah, some kind of pesticide.

16 Q All right. I think we're probably at a
17 good point to take a break if that's okay with
18 you.

19 A Yeah. That's okay with me.

20 (Recess.)

21 BY MR. SHERK:

22 Q Mr. Worley, we're back on the record after
23 a short break. We have been talking about,
24 generally, your property. Let me make sure that
25 I understand this.

1 Is it fair to say, Mr. Worley, that
2 when you moved to your house in 2000, this was a
3 retirement property?

4 A That was where I intended to live the rest
5 of my life.

6 Q Since moving in there in 2000, you had
7 been retired; correct?

8 A Yes.

9 Q Okay. How do you spend your typical week
10 at the house, say, Monday through Friday?

11 A Monday Through Friday? Well, I'm very
12 busy doing stuff. I stay busy all the time. If
13 I'm not mowing grass, I'm piddling at something
14 or other, or I get out and go.

15 Q Get out and do what?

16 A I'll get out and go somewhere or
17 something. You know, I'm very active in a lot
18 of other social things.

19 Q Do you have a shop on your property?

20 A No.

21 Q So you're not making anything?

22 A I'm not making anything.

23 Q Those days are over?

24 A Unless it's something for myself.

25 Q Okay. Do the weekends vary much from the

1 weekday in terms of your regular schedule?

2 A Yes, usually do.

3 Q How so?

4 A Well, in the summertime, you know,
5 weekends I'll usually be out boat riding or I'll
6 go hunting during the hunting season.
7 Summertime I'll go out and ride my motorcycle.

8 You know, I just -- I'm out doing a lot of
9 things, stay busy and active.

10 Q Okay. So one of your hobbies is
11 motorcycle riding?

12 A What?

13 Q One of your hobbies is motorcycle riding?

14 A Uh-huh.

15 Q What kind of bike have you got?

16 A I ride a Harley-Davidson Ultra Classic.

17 Q What year?

18 A 2009.

19 Q So it's a relatively new one?

20 A I ride in the drill team at the Shrine in
21 Knoxville.

22 Q How long have you been doing that?

23 A I've been riding in the drill team since
24 1983.

25 Q What is the drill team?

1 A That's maneuvering in parades and
2 competition at Shrine events.

3 Q What is the Shrine?

4 A You don't know what the Shrine is? We're
5 the people that have the hospitals for the
6 children, burn hospital in Cincinnati, and
7 everything we do is to raise money to keep those
8 hospitals going so the kids don't have to pay to
9 go.

10 Q So you call yourself a Shriner?

11 A Yes.

12 Q And that's a nationwide organization?

13 A Yes, it is -- no, it's more than that. It
14 covers the whole northern continent, Canada,
15 United States, and Mexico.

16 Q How long have you been a Shriner?

17 A Since 1979.

18 Q You mentioned before that you have a lot
19 of social activities that you take part in?

20 A Yes.

21 Q What sorts of things?

22 A Well, there's a lot of social activities
23 in the Shrine. And most -- like the unit that
24 I'm in, there are a lot of social activities.
25 And in our social activities, our wives were

1 always involved.

2 Q Are you still participating in those now?

3 A Yes.

4 Q I think you mentioned that you do --
5 you're a hunter?

6 A Yes.

7 Q What sorts of things do you hunt during
8 the hunting season?

9 A Quail, and I usually go out west pheasant
10 hunting every year.

11 Q Do you hunt on your property?

12 A No.

13 Q Have you ever hunted on your property?

14 A No.

15 Q I think you mentioned that you leased some
16 land in Texas?

17 A Yes.

18 Q Whereabouts in Texas?

19 A It's near a little town called Roby, north
20 of Abilene.

21 Q And what do you hunt there?

22 A Quail.

23 Q And so you'll drive with the dogs to that
24 area?

25 A What?

1 Q You'll drive with the dogs?
2 A Yes, uh-huh.
3 Q Does anybody else go with you?
4 A Yes. There would always be three of us go
5 together.
6 Q Three guys?
7 A Two besides myself.
8 Q Okay. When you hunt for quail and
9 pheasant, do you ever hunt in this area?
10 A No.
11 Q You always drive someplace?
12 A Someplace else, uh-huh.
13 Q How much hunting will you do in a given
14 year?
15 A Gosh, I don't know. We would always go
16 to -- when we had the lease in Texas, we would
17 go three times a year and we'd hunt five days
18 each time we would go. But we -- the three of
19 us, it was only -- we lost out on it, I guess
20 about three or four years ago. There was
21 another group of people that was involved in it,
22 and one of the guys in our group dropped out.
23 And while we were searching for somebody else,
24 the other guy found somebody to go in on the
25 lease.

1 And see, there was like six of us
2 had the lease. We would go three at a time, and
3 they were mixed up. And he found somebody else
4 because the lease was needing to be paid, and we
5 were trying to find somebody, so we just got
6 left out like that.

7 Q You mentioned that you're a fisherman?

8 A What?

9 Q You like to fish?

10 A I like to fish, yes.

11 Q Do you fish off your dock?

12 A No.

13 Q Always from your boat?

14 A Uh-huh.

15 Q Whereabouts do you go to fish?

16 A Well, when -- like I said, I haven't
17 fished in the Emory in some time. I used to
18 always fish up around where Dickey Springs --
19 that group is -- that's called up there Dickey
20 Springs, going on up to the big Emory up through
21 there.

22 Q Do you know what mile marker you would be
23 at?

24 A No, I don't know what mile marker that
25 would be.

1 Q So you would just travel up the Emory on
2 your boat?

3 A Up there and fish.

4 Q About how far up is it?

5 A Let's see. Used to fish that a lot, right
6 there where the Sportsman Club was.

7 Q Yeah, that's right.

8 A And this right up in here, this bank where
9 the big power lines cross in through there, that
10 was always good crappie fishing in the spring.
11 And, let's see, this cove right here used to be
12 good crappie fishing. Never fished in -- right
13 in there.

14 MR. BYRNE: Make sure you tell us
15 where you're pointing to.

16 THE WITNESS: I think he sees where
17 I'm pointing to.

18 MR. BYRNE: Well, make sure the
19 record --

20 BY MR. SHERK:

21 Q Do a little mark in blue where Sportsman's
22 Cove is where you fish.

23 A I fished here, I fished here, that's --
24 that's -- that -- and I fished this cove here.
25 But those are the main places where I fished.

1 Q And those are the little blue arrow marks
2 that you placed --

3 A That's just in that general area.

4 Q Sure. Sure.

5 MR. BYRNE: Do you want to make a
6 mark to distinguish those from your earlier
7 arrows?

8 THE WITNESS: Make a mark -- marks
9 from what?

10 MR. BYRNE: Well, to distinguish
11 these marks from your --

12 THE WITNESS: I done these double.
13 That's where I fished. I'll make those double.

14 BY MR. SHERK:

15 Q Okay. So the double arrows in blue are
16 where you fished. And they're on the Emory
17 River around mile marker 4, it looks like. And
18 then down here, by the Kingston facility itself
19 in that little cove.

20 A That's the cove -- it was filled
21 completely up from the ash spill. I used to own
22 some property on it.

23 Q You owned property there?

24 A Yes.

25 Q But sold it sometime?

1 A Sold it, yes.

2 Q When did you stop fishing?

3 A Let's see, the last time I fished. Let me
4 think. I didn't fish any at all last year. I
5 fished some the year before. I hadn't fished
6 that since -- well, probably the year before the
7 spill.

8 Q You did?

9 A I haven't fished yet since about a year
10 before the spill, is the last time I fished that
11 area.

12 Q Okay.

13 A We fished at Norris, walleye down at
14 Center Hill.

15 Q Are you still fishing at Norris Lake?

16 A I didn't get to go -- we didn't walleye
17 this year. We did last year. Fished Center
18 Hill last year, too.

19 Q Why have you not fished since before the
20 spill?

21 A On the Emory River?

22 Q Yeah.

23 A Well, because of the spill.

24 Q Oh, okay.

25 A The EPA said not to eat the fish out of

1 the Emory River, not to swim in it.

2 Q You understand that that's still the case?

3 A The last thing I saw from the EPA back
4 this year is if you swim, take a shower when you
5 got out and don't eat the fish.

6 Q You also enjoy boating?

7 A What?

8 Q You also enjoy boating?

9 A Yes, very much.

10 Q Have you continued to boat?

11 A I have not last year. I have this year.
12 Not as much as I wanted to, but I went out
13 boating this year some.

14 Q How much would you generally boat before
15 the spill?

16 A How much what?

17 Q Would you get out on your boat before the
18 spill?

19 A Well, up until my wife got sick, we would
20 be out every weekend, unless it was bad weather,
21 through the summer. But after she got sick,
22 why, that kind of limited me some. And so this
23 year I've been out, I don't know, several times.

24 Q What was the duration of her illness?

25 A What?

1 Q During what period of time was your wife
2 ill?

3 A I would say it was -- her problem, she had
4 a dementia problem. It was -- we first realized
5 it, I would say, in 2004. But for, like, say,
6 2004 and 2005, through there, it wasn't real,
7 real bad. She was able to, you know, care for
8 herself.

9 But as it continually got worse, you
10 know, she had -- I had to care for her, and I
11 couldn't leave her at home by herself very long.
12 You know, I had to have somebody stay with her
13 for me to leave the house for any length of
14 time.

15 So during that period of time there,
16 most of the time the boat was used by my
17 youngest daughter.

18 Q That would have been the period of time of
19 2005 to 2008 when she passed away?

20 A Uh-huh, yes.

21 Q So you were almost a continual caregiver?

22 A Yes.

23 Q Did you need to retain an outside service
24 to help you take care of your wife during that
25 period of time?

1 A In the later stages, she had hospice care.

2 Q That would have been in 2008?

3 A Well, yeah. I think -- yeah, I believe it
4 started in 2007, she was under hospice care.

5 Q And that's when someone comes to your home
6 to help take care of the patient?

7 A Yes, uh-huh.

8 Q So for that period of time while your wife
9 was ill, I expect that all your activities would
10 have been curtailed to some extent?

11 A Curtailed quite a bit.

12 Q Now, in 2010, it sounds like you are being
13 able to get out more than you had been able to
14 while your wife was ill; correct?

15 A Yes.

16 Q Other than boating and fishing, hunting,
17 riding your motorcycle, any other activities or
18 hobbies that we haven't discussed?

19 A A lot of other things. We all -- you
20 know, we'll get out and go eat occasionally on
21 weekends and stuff, you know, and some things
22 like that. And in recent months, I have met a
23 lady that we went out together and ate, went out
24 and danced a little bit and things like that,
25 you know.

1 Q Sounds like fun.

2 A Uh-huh.

3 Q Now, I believe you mentioned earlier that

4 you cut your -- the grass at your house?

5 A Yes. I mow my grass. I'm not doing it

6 right now, but --

7 Q Not today?

8 A Not today.

9 Q Right. But generally -- do you have a

10 riding mower?

11 A Yes, uh-huh.

12 Q And your entire property looks like it's

13 grass, much of it?

14 A Uh-huh.

15 Q There's no wooded areas, for example?

16 A No. The only is -- is the trees, you

17 know, here around where my daughter's place is

18 and the one up by the -- or two by the dog lot,

19 and the rest of them's down by the house towards

20 the water.

21 Q Do you have a lawn service that does any

22 part of the lawn maintenance for you?

23 A No, I do it all myself.

24 Q Do you use fertilizer and weed stuff?

25 A Weed eat, I do it all myself.

1 Q How long does it take you to mow?

2 A Two hours.

3 Q Do you have a hand -- a push mower as well
4 as a riding mower?

5 A Uh-huh. It takes two hours on the riding
6 mower.

7 Q And that probably varies by the season;
8 right? I mean, you don't have to mow so much or
9 at all in the winter?

10 A Right. Yes, it varies.

11 Q Do you have a garden?

12 A No.

13 Q Have you ever had a garden on your
14 property?

15 A No.

16 Q Do you do much entertaining at the house?

17 A Yes.

18 Q Like what sorts of things do you do?

19 A Most of the entertaining is friends,
20 relatives, and the people that's in my Shrine
21 unit that ride motorcycles with, why, we have
22 things -- things down there. We'll have fish
23 fries, cookouts, and, you know, we just --
24 things like that that -- you know, that you
25 would do with your friends.

1 Q Okay. Has that continued on since the
2 spill?

3 A Yes, uh-huh. We had a cookout last year.

4 Q Sounds like a lot of that is outdoor
5 activities?

6 A Well, usually the cooking is outdoors in
7 the back of the house, but in the basement is
8 usually where we end up eating at.

9 Q Does your entertaining vary by the season
10 at all?

11 A Yes. Some at Christmastime, or through
12 the holidays, you know, have friends over.

13 Q That will mainly be indoors because of the
14 weather, I would think?

15 A Right.

16 Q Besides your motorcycle riding and the
17 activities we talked about, have you engaged in
18 any forms of exercise, you know, like walking or
19 taking classes, anything like that?

20 A I walk and I have an exercise bike, you
21 know, things like that when the weather's bad
22 and you can't get out.

23 Q We've already talked about the boat that
24 you own?

25 A Uh-huh.

1 Q The runabout?

2 A Uh-huh.

3 Q And you've had that for a while?

4 A Yes.

5 Q Have you ever had a jetski or kayak?

6 A No.

7 Q How about a canoe?

8 A How about a what?

9 Q Canoe?

10 A No.

11 Q Pontoon boat?

12 A No.

13 Q Okay. How did this spill affect the

14 activities that you do on the lake and river?

15 A What I do on the lake or what?

16 Q On the river.

17 A On the river. Well, it's just all my

18 activities. It has had to be down river in the

19 Clinch and up the Tennessee. You couldn't do

20 anything up the Emory at all.

21 Q Has that changed as you've gotten farther

22 away in time from the spill?

23 A I haven't done any activity in the Emory

24 since before the spill up the Emory.

25 Q Right. Part of that was your wife's

1 illness; you just weren't going out?

2 A No. Before the spill, if I used the boat
3 for any kind of activities, we always went up
4 the Emory because, you know, you had less
5 boulders out to deal with when you were skiing
6 and stuff up the Emory.

7 But after the spill, I have not done
8 anything up the Emory.

9 Q Do you think you might try to head up that
10 way?

11 A Well, the last time I tried to go up that
12 way, the water was so low you couldn't get up
13 through there.

14 Q Was that during the winter?

15 A No. That was during the -- right after
16 the spill. So I just disregarded that and put
17 the boat in the dock and it just sat in the dock
18 the rest of the summer till I took it out for
19 the winter.

20 Q So since the spill -- since that post
21 spill attempt that you made to go up the Emory,
22 you haven't given that another try?

23 A Huh-unh.

24 Q Do you plan to give it a try any time
25 soon?

1 A Maybe I might in the future, sometime,
2 because I don't know how things are up through
3 there right now, you know. I seen the dredgers
4 and stuff out, you know, but I haven't been up
5 there to look to see anything. Maybe in a few
6 years.

7 Q Okay. But you've been able to leave your
8 dock and then go down river?

9 A Down river, yeah.

10 Q Towards the Clinch?

11 A Towards the Clinch. You know, when you go
12 down and go up the -- the last time we were out,
13 why, we was up the Tennessee River, stopped and
14 swam and stuff, you know.

15 Q Was that this year?

16 A Yes, that's this year.

17 Q Who do you go with when you boat?

18 A My lady friend.

19 Q What's her name?

20 A Linda Rhea.

21 Q Linda Rhea?

22 A R-h-e-a.

23 Q Do you use any of your neighbors'
24 properties for hunting?

25 A No.

1 Q How about trapping?

2 A I don't trap.

3 Q Not on your property either?

4 A No, I don't trap, period.

5 Q When did you first become interested in

6 motorcycle riding? A long time ago?

7 A Long time ago. I had a scooter when I was

8 a kid. The one time I got involved in riding a

9 motorcycle was when I was in the Navy, and a

10 short time out of that down until I moved to Oak

11 Ridge.

12 Q Have you always had Harleys?

13 A Yes. Other than the scooters I had when I

14 was a kid, that's Cushman, teenager.

15 Q So you've kept a pretty good stock of

16 Harleys on hand for quite sometime then?

17 A Uh-huh.

18 Q Until I think 2009, I think you said?

19 A Uh-huh.

20 Q Have you ever taken any longer trips on a

21 motorcycle?

22 A Sure.

23 Q To Sturgis?

24 A No. I've been to Sturgis, but not on a

25 motorcycle.

1 Q What kinds of longer trips?

2 A To Myrtle Beach, up to Virginia Beach. I
3 have some relatives in Virginia Beach, rolled up
4 and visited them. And for a lot of years in the
5 Shrine, we went to Myrtle Beach every September
6 for a week of activities.

7 Q Was this quite some time ago or in the
8 relative recent past?

9 A Well, they got to rotating that thing and
10 they hadn't -- we're going this year. But this
11 is the first year that the Shrine stuff has been
12 at Myrtle Beach in, I'd say, maybe three years
13 or so because it -- the high -- the people in
14 the -- that were officers in the South Atlantic
15 Shrine Association started moving it around.
16 They used to just leave it at Myrtle Beach all
17 the time, years ago.

18 Q Do you still make those trips?

19 A Yes. I'm going this year, but I ain't
20 going to ride. I'm not going to be able to ride
21 the 16th of September.

22 Q Why's that?

23 A Well, from my surgery. I've got a big
24 scar right across through here, and all that
25 stuff that was done internally. And if you pick

1 up something real heavy, you can tear all that
2 loose.

3 Q Yeah. So you've got to be careful for a
4 while?

5 A Yes. I may be able to ride in the Shrine
6 Circus and Thompson-Boling Arena in October. I
7 hope so.

8 Q It was hernia surgery; right?

9 A What?

10 Q Hernia?

11 A Hernia, and they had to put the mesh liner
12 in because my liner was so thin, they couldn't
13 sew it up.

14 Q Okay. I believe that you testified
15 earlier today that after the spill on
16 December 22, 2008, you saw some fly ash on your
17 dock --

18 A Yes.

19 Q -- is that right?

20 Let's look at Exhibits 7 and 9.
21 Those are pictures of your property and your
22 dock.

23 A You said 8 and 9?

24 Q 7 and 9.

25 A Well, no -- 9 and what? 9 and 10? 10

1 shows my dock.

2 Q This one shows your property?

3 A That shows my dock, and this one shows my
4 dock.

5 Q Let's use 7 and 9. 7 shows your property
6 and 9 shows your dock.

7 Do you see that?

8 A Okay.

9 Q Why don't you try drawing with this red
10 Sharpie where the ash was on the morning after
11 the dike --

12 A It was on the walkway here.

13 MR. BYRNE: I need to object to form.

14 BY MR. SHERK:

15 Q -- spilled.

16 MR. BYRNE: Object to form.

17 THE WITNESS: What was the question?

18 BY MR. SHERK:

19 Q Can you draw with that red Sharpie where
20 you remember that the ash was the morning after
21 the spill?

22 A It was in the lake bottom. It was big
23 hunks. You'd have to get the water out of the
24 way. It was -- it was like right out in through
25 here.

1 MR. BYRNE: Which exhibits are you
2 motioning through?

3 BY MR. SHERK:

4 Q Let's start with Exhibit 9. Go ahead and
5 scribble with that red pen, see if it shows up,
6 where the ash was the day after the spill.

7 A I can't show you on that. It was on this
8 side of the dock. It was back in this area here
9 on the bottom of the water --

10 Q Okay, let's --

11 A -- back in through here. Because after it
12 was over, the water went back down and there was
13 hunks of ash down in through here. It was even
14 down below this. And I didn't see any -- notice
15 any directly under this boat dock right in here
16 on the bottom of the river.

17 Q Okay. So none under the dock after the
18 spill?

19 A It was later when I saw some of the ash on
20 this part of the dock here and on the walkway.
21 And then later I went down there and I didn't
22 see it, so I assumed the rain washed it off.

23 Q All right, Mr. Worley, let's orient
24 ourselves to this exhibit, which is Exhibit 10;
25 correct?

1 A Uh-huh.

2 Q And why don't you just scribble in red
3 where you remember seeing ash on the day of the
4 spill?

5 A In here, and here, I think.

6 Q And that was chunks of ash, you said?

7 A Down on the bottom -- you know, the dry
8 part -- the water gone down. It was on land,
9 down where the bottom of the lake.

10 Q Okay. All right. Anywhere else that you
11 recall seeing the ash on the day after --

12 A That was all. I didn't --

13 Q -- the spill?

14 MR. BYRNE: Let him finish his
15 question because I don't think he's going to get
16 the time reference.

17 THE WITNESS: Oh, okay. No, I didn't
18 see anywhere else except from where I showed
19 you.

20 MR. BYRNE: But I think you didn't
21 let him finish.

22 THE WITNESS: Okay. I'm sorry.

23 MR. BYRNE: What period of time --

24 THE WITNESS: What period of time.

25 MR. BYRNE: -- are you talking about?

1 THE WITNESS: After the ash spill and
2 the water -- when I went down there and the
3 water was down, then different times I went down
4 there walking and looking to see what I could
5 see because there was all kinds of trash washed
6 up on the bank and everything. And I saw hunks
7 of ash out in the water in the area where I
8 showed you.

9 BY MR. SHERK:

10 Q And that's the area where you made the
11 little --

12 A Yes, uh-huh.

13 Q -- circles with the red pen on Exhibit 10;
14 correct?

15 A Okay.

16 Q Once again, we'll just have to be careful
17 not to talk over each other.

18 Okay?

19 A I'm sorry. I apologize for that.

20 Q No, that's all right. That's fine. It's
21 just natural.

22 Okay. When you saw the ash that
23 was -- that was laying there after the water had
24 receded the day after the spill, did you go move
25 it away or anything? What did you do with it?

1 A I didn't do nothing with it. I left it
2 alone.

3 Q Did somebody come and clean it up?

4 A I don't know if they did or not.

5 Q Did it -- it got out of there somehow?

6 A I don't know. I haven't -- okay. It was
7 still there when the water was down before they
8 backed it up now. It was still there.

9 Q Did you ever call anybody to come and
10 clean up that ash?

11 A Huh-unh.

12 Q I believe you testified that the rain may
13 have washed it away?

14 A Oh, for the dock, what I saw on the dock.
15 It wasn't hunks. It was just loose ash, you
16 know, like it had been up in the air.

17 Q Okay. All right. So there was a dusting
18 of ash on your dock?

19 A Uh-huh.

20 Q Did you try to clean that up?

21 A No. I assume that the rain washed it off.
22 It's gone.

23 Q So you just took a look at it and went
24 back up to your house?

25 A Now they still -- when it rains and the

1 water comes up and it will go back down, you
2 could see ash all along on top of the water next
3 to the bank now.

4 Q Okay. How do you know that it's ash?

5 A Well, it don't look like dirt floating.

6 Q What's it look like?

7 A It looks like fly ash.

8 Q What does fly ash look like?

9 A It's kind of a smoky-like color, not
10 white, a -- not a dark smoke, but a smoky-like
11 color because I've seen it at the Bull Run
12 plant.

13 Q You've seen it out of the Bull Run plant?

14 A Yeah, I've seen the fly ash out there
15 during the outages.

16 Q When you --

17 A When they were cleaning the boards out.

18 Q When you went to the TVA plant during a
19 period of outage and worked --

20 A When I worked at Bull Run out there during
21 the outages, there was a time that the furnaces
22 were shut down and they cleaned them out. And I
23 saw the fly ash. But the fly ash that was on
24 the bottom here was dark. It was very dark and
25 in hunks.

1 Q Okay. Let's move away from the day after
2 the spill.

3 In the next three months, did you see
4 ash in any other location?

5 A Only what I saw right here. And the last
6 time I saw it before the water came up in 2009
7 after the spill, it was still laying there.

8 Q Would that have been early in 2009?

9 A Well, when they start backing the water
10 up, they usually start filling it, I think, in
11 April. So prior to that.

12 Q So it was there --

13 A It was there then. Now, I don't believe
14 when it went down at the end of the year, I was
15 back down there hardly any. So I don't know if
16 it was still there or not. I can't say it was
17 there now. But it was there when the lake was
18 filling in April of 2009.

19 Q Okay. And you know that because you went
20 down and saw it?

21 A I saw it, yes. I went down and saw it.

22 Q Okay. So you saw some ash the day after
23 the spill, as you testified to; correct? Down
24 by the -- where the water had receded?

25 A Uh-huh.

1 Q And do you think it was the same ash that
2 was there in April of 2009?

3 A Yes, because it was all in large hunks up
4 and done through there, and when the -- I was
5 back and forth down there periodically because
6 there was all kinds of trash up on the bank and
7 stuff like that. And when you -- even when I
8 started getting ready to mow and everything, the
9 water got backed up, and it was still those
10 clumps of ash out there in the bottom of the
11 water -- or the lake.

12 Q So it wasn't in your yard?

13 A No. No, no, no, no. It was out in the
14 lake here.

15 Q All right. I think you testified also
16 that there was some ash -- it looked like ash on
17 your boat dock the day after the spill?

18 A No. No, that was later.

19 Q When was that?

20 A I don't remember the date. I don't
21 remember the time frame that was.

22 Q All right. You observed --

23 A I observed it there, and then later it was
24 not there, and I assume the rain just washed it
25 off, off the boards.

1 Q And I believe that you said that you
2 never, you know, attempted to clean up the ash
3 or, you know, bag it up or throw it in the trash
4 can, anything like that?

5 A No. Now, they -- people came down there
6 and picked up a lot of the trash. It had come
7 in from the high water. There was just all
8 kinds of trash, and that was up on the banks,
9 you know, on the -- on the land that's between
10 my property line and the water. And they were
11 cleaning up stuff down there then.

12 Q That would have been limbs and --

13 A What?

14 Q -- tree limbs?

15 A There was all kinds of stuff washed in
16 there.

17 Q Okay.

18 A And I assume it came from when the ash
19 went into the lake and they'd create -- it
20 created a type of a tsunami with all the water
21 that it moved and all the loose trash. There
22 was logs, plastic buckets, just all kinds of
23 stuff.

24 Q Okay. So you saw folks that were cleaning
25 all that stuff up?

1 A Yeah. I don't know whose employees they
2 were or anything like that, but they were down
3 there on the bank picking stuff up.

4 Q So your property line does not go all the
5 way down to the river?

6 A No. No. No.

7 Q It follows a contour; right?

8 A Yes. It goes like what you shown in
9 one -- like this right here. And there's land
10 between it and the water.

11 Q Okay.

12 A That's the property line. No, I know
13 about that part there. I'm familiar with that.

14 Q So TVA owns the land between your property
15 line and the river, then; is that your
16 understanding?

17 A Uh-huh.

18 Q Yeah, okay. All right.

19 (Marked Exhibit 12.)

20 BY MR. SHERK:

21 Q Mr. Worley, I've handed you Exhibit
22 No. 12. I'll represent to you that that is a
23 recorded plat map that shows the original
24 parcels as they were divided up way back when.
25 I think this is dated June 27, 1964.

1 I have highlighted the -- your parcel
2 of land in yellow.

3 Do you see that?

4 A Yes, I see that.

5 Q Okay. It shows down here at the bottom,
6 north of your -- okay, that would be, I guess,
7 south of your property is the Clinch River --
8 right? -- the confluence of those rivers?

9 A Here's the Clinch River coming right
10 through here.

11 Q You're in kind of a peninsula, it looks
12 like.

13 Is that right?

14 A Yes.

15 (Marked Exhibit 13.)

16 BY MR. SHERK:

17 Q Okay, Mr. Worley, I've handed you
18 Deposition Exhibit No. 13, and I'll represent to
19 you that this is a copy of a warranty deed
20 that's dated June 24, 1966.

21 Do you see that --

22 A Yes.

23 Q -- warranty deed?

24 This is not easy to read.

25 A What?

1 Q This is not easy to read, at least for me,
2 but it's the best copy we had.

3 But does this appear to you to be a
4 copy of the warranty deed to your land?

5 A Yes, it does appear to be.

6 Q Okay. And this confirms your recollection
7 that it was 1966 when you bought this property;
8 right?

9 A Yeah, that was what I thought.

10 Q Did you buy this free and clear?

11 A What do you mean by --

12 Q Did you pay cash for it?

13 A Yes.

14 Q So you never had a mortgage on this
15 property?

16 A Never had a mortgage on it.

17 Q Okay. You know what, I think this would
18 be a good time to take a short lunch break.

19 It's about 12:15.

20 A Sounds good.

21 (Lunch recess.)

22 BY MR. SHERK:

23 Q Mr. Worley, we're back after our lunch
24 break. Are you feeling okay?

25 A Fine.

1 Q Good. Again, just let me know if you want
2 to take a break, but I think we'll try to shoot
3 for the goal line --

4 A Okay.

5 Q -- do the best we can to get somewhat
6 close.

7 Right before lunch we were talking
8 about your property and the fact that you bought
9 it free and clear back in 1966; correct?

10 A Correct.

11 Q You owned that piece of property with your
12 wife?

13 A What?

14 Q You and your wife jointly owned it, the
15 property?

16 A Oh, yes, yes. I believe the deed reflects
17 that, doesn't it?

18 Q It does.

19 Now, with your wife having passed
20 away, you are the sole owner of your property?

21 A Right.

22 Q And your daughter has no interest
23 whatsoever in the property itself?

24 A No, neither one of them.

25 Q I've got a bunch of tax appraisal

1 documents that I'm going to show you,
2 Mr. Worley. I've got two for 2009, and two for
3 2010, and the reason I have two is because one
4 of them goes with your house and the land and
5 the other is just your daughter's house, okay?
6 I just wanted to explain that before I show you
7 all these things.

8 (Marked Exhibit 14.)

9 BY MR. SHERK:

10 Q Mr. Worley, you've been handed Deposition
11 Exhibit No. 14, and I'll represent to you that
12 this is a real estate appraisal for the year
13 2009.

14 Do you see that? It's up at the top
15 of that document.

16 A I guess this is where you're talking
17 about, right here.

18 Q I'll make a little mark on it, okay?
19 There you go.

20 A Oh, okay. This is over here. This is --
21 this one over here is '99. This is 1999, and
22 this one over here is 2009, okay.

23 Q Yeah. Do you see that? And it's got your
24 name here over on the left-hand side, James
25 Worley -- James Gordon Worley?

1 A Yeah.

2 Q So in 2009, it looks like the tax
3 authorities valued your house at \$212,000.

4 Do you see that?

5 A Uh-huh.

6 Q And the land at \$100,000.

7 Do you see that figure?

8 A Yes.

9 Q And total appraisal was 213,000 -- or
10 212,000, I'm sorry.

11 A 312,000.

12 Q There we go. If I could add. 312,000?

13 A Uh-huh.

14 Q Were you aware that that assessment had
15 been made on your property for the 2009 tax
16 year?

17 A Yes. I had received a notice from the
18 property assessor's office.

19 Q Did you do anything to appeal that or try
20 to argue against that valuation?

21 A No. You'd be wasting your time.

22 (Marked Exhibit 15.)

23 BY MR. SHERK:

24 Q Mr. Worley, you've been handed Deposition
25 Exhibit No. 15, and I'll represent to you that

1 this is another 2009 tax year appraisal. And
2 this, at least, appears to be an appraisal on
3 your daughter's house?

4 A Yes. And it has my name up there, but she
5 gets her property assessment in her own name
6 now.

7 Q Oh, does she?

8 A Yes. Yes.

9 Q Do you know whether or not she objected to
10 or appealed this assessment on the value of her
11 home?

12 A No, I do not know.

13 (Marked Exhibit 16.)

14 BY MR. SHERK:

15 Q Okay. Mr. Worley, you've been given
16 Deposition Exhibit 16, and I'll represent to you
17 this is an appraisal for the tax year 2010.

18 Do you see that?

19 A I see it.

20 Q Okay. It suggests that your house is
21 worth \$262,900.

22 Do you see that?

23 A I see it.

24 Q The land is now appraised at \$200,000. Do
25 you see that?

1 A I see that.

2 Q And the total appraisal is \$462,900. Did
3 I read that correctly?

4 A Uh-huh.

5 Q Were you made aware of this 2010 appraisal
6 by notice?

7 A The property assessor sent me the
8 appraisal, yes.

9 Q And did you do any appeal or objection to
10 this valuation in 2010?

11 A No, because you're wasting your time.
12 You're not going to get it reduced. So why
13 should I waste my time going over and arguing
14 with them or talk to them. I already tried that
15 years ago.

16 Q Did you? With no --

17 A You lose.

18 Q Mr. Worley, does this appraisal for 2010
19 seem on target to you?

20 A No, it does not.

21 Q How do you think it is not on target?

22 A Oh, okay. Let's start. The one you gave
23 me right here --

24 Q The 2009?

25 A Just a second. This one here would be the

1 exact year on this one. This one here was for
2 2009.

3 Q Okay. You're looking at Exhibit --

4 A Yeah, the one 2009 -- 2009 right here.

5 Q That would be Exhibit 14?

6 A Okay. They said the value of the land was
7 \$100,000.

8 Q Yes.

9 A One year later here, they say it doubled
10 to 200,000. Do you believe something doubles in
11 a year like that on land? You don't have to
12 answer the question. No, I think it's a very
13 unfair assessment of it.

14 Q Okay. Have there been neighbors of yours
15 that have challenged or appealed their property
16 tax assessments?

17 A I don't know if they have or not.

18 Q Has anybody contacted you to join together
19 with them to try to get --

20 A No.

21 Q -- these valuations lowered?

22 A No.

23 (Marked Exhibit 17.)

24 BY MR. SHERK:

25 Q Let's look at the last one of these.

1 Mr. Worley, this will be Exhibit 17,
2 and this is a 2010 appraisal. I assume this is
3 your daughter's property, but there's no
4 drawing.

5 A Yeah, it looks like it's been reduced,
6 what, \$2,300 from the previous assessment.

7 Q This one's been reduced in value. Were
8 you aware that had been done?

9 A She told me that it had been reduced.

10 Q That didn't inspire you to see if you
11 could go get your taxes?

12 A Well, she didn't do nothing -- to my
13 knowledge, she did not do anything to get it
14 done.

15 Q Okay.

16 A It was 30,000, down to 27,700. It may
17 have -- you know, that is class -- it's not
18 classed, it comes with like a class of like a
19 mobile home, one of those modulars, and that may
20 have been what lowered the price. I don't know.
21 I'm just guessing.

22 Q That was going to be my question to you,
23 actually. Do you think that because it was a
24 premade home, maybe it depreciates in value?

25 A That could have been.

1 Q Whereas your house, you know, may be
2 increasing in value?

3 A I know she had talked to them about that
4 the tax appraisal needed to come to her, not to
5 me like it once did.

6 Q Have you placed your property up for sale?

7 A No.

8 Q Do you intend to put your property up for
9 sale?

10 A What?

11 Q Do you intend to put your property up for
12 sale?

13 A At this particular time, no, because it
14 won't sell.

15 Q Let me show -- let me refer you back to
16 Exhibit No. 8. It's one of those photographs of
17 your house.

18 A That's a picture of my daughter's house.

19 Q Right, and your mailbox?

20 A Yeah.

21 Q Your mailbox is the big brick structure?

22 A Mine and hers both.

23 Q There's a sign just to the left of that
24 mailbox. Do you see that yellow sign?

25 A Yes.

1 Q What is that?

2 A It says,

3 "Back Jack, do it again.

4 Vote for Jack Stockton for

5 sheriff."

6 Q Okay. So that's not a "For Sale" sign?

7 A That's not a "For Sale" sign.

8 MR. BYRNE: I hope not.

9 THE WITNESS: I know it's not.

10 BY MR. SHERK:

11 Q So as we sit here today, you don't have an
12 intention of putting your house for sale on the
13 market; correct?

14 A Not at this particular time because I know
15 it won't sell.

16 Q Okay. Is that because there are too many
17 other properties for sale in the area?

18 A In my opinion, it's because of the ash
19 spill and how people look at that. This house
20 right over here for sale has been on the market
21 for quite some time. It's on the Clinch River.
22 You can go past my house and there's one that is
23 in that cove right up there. It's been on the
24 market for over two years -- or about two years
25 and hasn't sold. My house is right here. It's

1 up in here, in this cove. And now --

2 Q Okay. There's a house to the north of
3 you?

4 A That would be north of me. That would be
5 north of me. And then the last few weeks
6 between where I live and the bridge there's
7 another one on the market there.

8 Q If somebody could give you what you
9 consider to be fair market value for your house,
10 would you move?

11 A Yes.

12 Q You would?

13 A Yes.

14 Q Okay.

15 A If I got what I think it's worth.

16 Q Where would you go?

17 A I would probably, if I wanted to stay in
18 this area, go to Loudon County or Knox County,
19 or I'd go back to White County, where I was born
20 and raised.

21 Q Mr. Worley, you said earlier that you
22 would be seeking future medical testing or
23 medical monitoring in this lawsuit; correct?

24 A Yes.

25 Q Why do you believe that you require some

1 sort of medical monitoring?

2 A I personally believe that there is enough
3 danger in fly ash that if you got it in your
4 lungs, it could cause health problems.

5 Q Now, prior to the failure of the dike on
6 December 22, 2008, do you believe that you were
7 exposed to fly ash?

8 A I was in 2000 in the Bull Run steam plant
9 because I smelled it, and I know that it was,
10 you know.

11 Q Okay. That was when you were working on
12 one of the outages?

13 A Uh-huh.

14 Q Okay. Other than that incident where you
15 worked at the Bull Run steam plant, were there
16 any other occasions prior to the dike failure
17 that you believe you had been exposed to fly
18 ash?

19 A I don't believe so because the other times
20 I never smelled it when we were in there working
21 like I did in 2000, because in 2000, the boilers
22 had all been shut down and then opened up and
23 they were vacuuming and cleaning them out. And
24 that brought it out into the air.

25 Q Prior to the dike failure on December 22,

1 2008, do you think while residing at your house
2 you had been exposed to fly ash?

3 A If I have, I'm not aware of it.

4 Q At any time prior to the dike failure, did
5 you have a medical examination to determine if
6 you had been exposed to fly ash?

7 A The only examination I had was the one I
8 told you about at the medical screening, and
9 they did scan my lungs three times. And that
10 was the only -- the nodules was the only thing
11 they saw in there.

12 Q And for that comprehensive examination,
13 the point was to make sure that you hadn't
14 sustained any disease or illness as a
15 consequence of exposures that you would have
16 experienced at work; correct?

17 A Correct.

18 Q Okay. All right. Your complaint, the
19 medical monitoring complaint, lists a number of
20 hazardous substances that are alleged to be
21 components of fly ash.

22 Let me direct your attention to
23 Exhibit 1, paragraph 138.

24 A What page?

25 Q Let's see here. It's page 23, right at

1 the very bottom of the page.

2 Okay. Do you see that paragraph 138?

3 A Yes, I see it.

4 Q Mr. Worley, do you believe you have been
5 exposed to mercury?

6 A Well, according to this, I was.

7 Q Okay.

8 A Because I know I was exposed to some fly
9 ash in 2000 at the Bull Run plant. It may have
10 been such a small amount that I don't have any
11 health problems from it, and I might develop
12 health problems in the future from it.

13 Q Would your answer be true as to the other
14 chemicals that are listed in this paragraph?

15 MR. BYRNE: Object to form.

16 THE WITNESS: What?

17 MR. BYRNE: You may go ahead.

18 THE WITNESS: Oh, okay. If this
19 statement is correct from whoever put this down
20 here, that those chemicals and stuff are in the
21 fly ash burning coal, then the answer would be
22 yes.

23 BY MR. SHERK:

24 Q Okay. So as for magnesium, selenium,
25 sodium, cobalt, and manganese, if they are, in

1 fact, in fly ash, your belief is that you had
2 been exposed to them because you had been
3 exposed to fly ash?

4 A Yes.

5 Q And the -- what you were looking to in
6 terms of support for that belief is -- is this
7 complaint?

8 A Yes.

9 Q Okay. What makes you believe you've
10 actually been exposed to fly ash?

11 A Well, I smelled it. And I -- I saw some
12 of the ash -- small particles in the air inside
13 the Bull Run plant out there.

14 Q So when you were at the Bull Run steam
15 plant, you smelled the fly ash?

16 A Yes.

17 Q And you saw fly ash particles?

18 A Uh-huh, in the air.

19 Q Have there been any other occasions where
20 you believe you have been exposed to fly ash
21 besides the exposure at the Bull Run steam
22 plant?

23 A That's the only time, to my knowledge,
24 that I was -- felt like, you know, that I was
25 exposed to some fly ash.

1 Q Do you believe you've been exposed to fly
2 ash on your property?

3 A I have no knowledge if I have.

4 Q When you were at the Bull Run steam plant,
5 the exposure that you believe you sustained was
6 from breathing fly ash; correct?

7 A Uh-huh, yes.

8 Q Did you ever touch it with your hands?

9 A I don't know if I did or not.

10 Q You didn't eat it while you were there?

11 A Pardon?

12 Q You didn't eat it while you were there?

13 A No.

14 Q So it was the breathing of it into your
15 lungs?

16 A Yes.

17 Q After your working at the Bull Run steam
18 plant, did you get any doctors' examination to
19 determine whether or not you've been exposed to
20 hazardous substances?

21 A I got some antibiotics because I was
22 having a lot of drainage from my sinuses from my
23 family doctor.

24 Q Okay. And when was the Bull Run steam
25 plant work that you did?

1 A What?

2 Q When was that, what year?

3 A In 2000.

4 Q 2000, okay.

5 A October/November of 2000.

6 Q Since the spill in December of 2008, do
7 you think you've been exposed to fly ash by
8 drinking tap water?

9 A I wouldn't think so because my water comes
10 from a utility district.

11 Q Okay. Since the dike failure in December
12 of 2008, do you think you've been exposed to fly
13 ash by exposure to surface water on the river?

14 A Now, I haven't been in the river with my
15 body, only with my boat.

16 Q Were you involved in any of the clean-up
17 operations after the spill, the Kingston
18 facility?

19 A No.

20 Q Did you ever tour the facility to monitor
21 how it was being done?

22 A No. I didn't even go down and monitor the
23 people that were picking trash and stuff up off
24 my -- below my property next to the water and
25 everything while they were doing it. I just saw

1 them from in the house.

2 Q You just let them do their work?

3 A I just -- you know, I figured, you know --
4 yes. I didn't go down and bother them.

5 Q When was the last time you think you got
6 into the river?

7 A What?

8 Q When was the last time that you got into
9 the river?

10 A Since I got into the Emory River?

11 Q Yeah.

12 A I would say, probably -- I think about the
13 last time I skied in the river there was
14 probably 2006.

15 Q When you saw the fly ash down where the
16 river had receded on the day after the spill at
17 the Kingston facility, did any of the fly ash
18 actually get onto your property?

19 A I would guess if it -- I saw it on my
20 dock, that's probably what came in there. You
21 know, that's in the wintertime. Grass is brown
22 and dark, and it's hard to see stuff in grass
23 and everything, you know. So I can't definitely
24 say it was up on my property or it wasn't. I
25 can't say that it was on the land between my

1 property and the lake, but I know it was down
2 there because I could see it. With the grass
3 growing down through there, you can't -- you
4 can't see what's down in -- the particles down
5 in that grass.

6 Q Okay. Have you ever had the soil on your
7 property tested for the presence of fly ash or
8 other hazardous substances?

9 A No.

10 Q Have you avoided eating food grown in the
11 area since the spill?

12 A I don't know that I ate any food that had
13 been grown right in this area.

14 Q Probably just go to the grocery store and
15 get the food that's there?

16 A I have a friend that's up near Oliver
17 Springs who has a garden, and he usually gives
18 me some tomatoes and corn out of his garden, but
19 that's not down here.

20 Q Different location?

21 A Different location.

22 Q So as far as you know, you really haven't
23 eaten any fresh fruits grown in the area of
24 geographic area Class 1?

25 A Right.

1 Q Okay. From your house, could you see the
2 trucks and big pieces of machinery that were
3 working on the areas where the ash spilled?

4 A You could see some heavy equipment and
5 stuff up there. Most of what I saw was the
6 bright lights at night shining towards my house.

7 Q Were they working on the area 24/7?

8 A They were working on some of that area up
9 in there. And I have been up through there
10 since then, and the lights and stuff were up
11 where they were working together, getting up the
12 spill and stuff, working on the spill.

13 Q Was that when you were visiting friends at
14 Swan Pond Circle?

15 A Yes, uh-huh.

16 Q Okay. The trucks and trains that haul the
17 ash away from the facility, do they go by your
18 house?

19 A No.

20 Q Okay. So you don't have any complaints
21 about extra traffic and congestion from these
22 trucks going by your house?

23 A I've never seen any big trucks up through
24 Sugar Grove Valley.

25 Q Okay. Has any doctor told you that you

1 need a street -- a screening test due to your
2 exposure to fly ash arising out of the failure
3 of the dike?

4 A No.

5 Q Has any doctor told you that you need a
6 screening test due to your exposure to fly ash
7 in the period since the failure of the dike to
8 now?

9 A No.

10 Q Have you gone to your doctor and demanded
11 a screening test of any kind due to the spill at
12 the Kingston facility?

13 A No.

14 Q Has any physician told you that you are a
15 significantly increased risk for disease because
16 of your exposure to fly ash?

17 A I don't have knowledge to know that. I
18 have not had any health problems.

19 Q Okay. You're in good shape?

20 A What?

21 Q You're in good shape? You're in good
22 shape?

23 A Yes.

24 Q Other than your hernia?

25 A Other than my hernia, and I'll be okay

1 when that's over because my screening that I
2 told you when I went through the scan, it showed
3 no blocked arteries going to my heart, and all
4 it ever showed was those nodules in my lungs.
5 They were very small and smooth, and 18 months
6 later they were still the same way.

7 Q In this lawsuit, Mr. Worley, do you know
8 what kind of screening tests are being sought?

9 A No, I don't know what the screening tests
10 would be.

11 Q In this lawsuit, do you know what diseases
12 that the class would like to be monitored for?

13 A Do I know what?

14 Q In this lawsuit, do you know the kinds of
15 diseases that the class would like to be
16 monitored for?

17 A The only thing I know is this right here
18 what they're asking on this page here.

19 Q Page 23?

20 A Page 23. That's being asked for there and
21 line 138.

22 Q And that's the list of those chemicals
23 that we talked about earlier?

24 A Yes.

25 Q Okay. When you worked at Y-12, you've

1 told us about the yearly physicals you would get
2 because you were an employee there; right?

3 A Yes.

4 Q Pretty extensive number of tests given to
5 you on a yearly basis; right?

6 A Yes.

7 Q Were they ever given to you more
8 frequently than once a year?

9 A No. They usually were close to once a
10 year. Sometimes they would run over a year.
11 But they tried to stay within a time frame of
12 12, 16, 18 months, like that. They were trying
13 to do everybody in that plant, and they serve
14 1,000 people in there, so you wouldn't always
15 come out exactly on a one-year date. It would
16 be close.

17 Q Since you retired in 1994, have you
18 continued to get regular physical examinations?

19 A Yes.

20 Q Who's your personal doctor?

21 A Bingham, Dr. Bingham in Oliver Springs.

22 Q Oliver Springs?

23 A Uh-huh. Barry Bingham.

24 Q Do you go see him about once a year?

25 A Yes, annually.

1 Q What kind of tests does he put you through
2 as a part of your regular medical care?

3 A In my blood work he checks everything in
4 the blood, PSA, cholesterol, because I do take a
5 cholesterol drug.

6 Q You take a statin?

7 A Yes, Vytorin. And he always checks for
8 blood in your stool, listens to your heart, you
9 know, checks if you've got pulse in your legs at
10 your feet. About as -- he don't do an x-ray,
11 but about as general -- I mean covers about
12 everything that a general practitioner would
13 cover in a physical.

14 Q So he checks your weight?

15 A Checks my weight.

16 Q Checks your blood pressure?

17 A Blood pressure.

18 Q Takes a urine sample?

19 A Yes.

20 Q Does he do an EKG?

21 A He hasn't done EKG's. And he once sent me
22 to heart people in Oak Ridge, and they did a
23 treadmill and then they put that dye in your
24 veins and checked all that, too.

25 Q Sounds like you've had a stress test?

1 A Yeah, it was a stress test.

2 Q That's not something that Dr. Bingham

3 gives you regularly, though?

4 A No, no, no.

5 Q That's just one time?

6 A He just felt that I should have that based

7 on my aging and everything.

8 Q As a part of your regular medical care, do

9 you also get screening tests like a prostate

10 exam?

11 A Uh-huh, yearly.

12 Q Colonoscopy?

13 A Yes, I had one last year.

14 Q Any regular chest x-rays?

15 A I guess -- hold on, let me think. I think

16 a year before last, I had a chest x-ray.

17 Q Okay. So every couple years, maybe?

18 A Well, that was the first one I had had in

19 a few years.

20 Q Okay. Okay. Have you ever had an LDCT

21 scan?

22 A What is that?

23 Q Low-dose computed tomography.

24 A No, I don't think so. I don't even know

25 what that is.

1 Q Okay. All right.

2 Do you consider yourself to be
3 somebody that keeps up with current events?

4 A Yes.

5 Q And what are your sources of news
6 information?

7 A The newspaper, TV, and I receive regular
8 information from AARP.

9 Q How about magazines?

10 A Not much on magazines.

11 Q Do you listen to news on the radio?

12 A No, just -- well, occasionally, but
13 usually news on the TV.

14 Q How about Internet news?

15 A What?

16 Q Internet news on the computer?

17 A No. The only thing I use my computer for
18 is communicate with my friends and the Shrine
19 stuff.

20 Q Do you watch TV news magazines, like 60
21 Minutes?

22 A What?

23 Q Do you watch programs like 60 Minutes?

24 A Yes.

25 Q Are there particular kinds of news stories

1 that you follow more closely than others?

2 A No. I just like to keep up with the local
3 news and the national news.

4 Q So local politics, local happenings?

5 A Oh, I've always messed with politics. I'm
6 a union official.

7 Q Oh, you are?

8 A Yes. We're always interested in who's
9 running and for what and everything.

10 Q That's why the sign in your yard?

11 A What?

12 Q That's why the sign --

13 A Sign, yeah.

14 Q So you keep up with what's going on in
15 Washington?

16 A Yes.

17 Q How about sports?

18 A Oh, yes, I love sports, especially college
19 and high school football.

20 Q How about the news out of Hollywood?

21 A No.

22 Q Not so much, huh?

23 A Not so much.

24 Q Okay. Have you kept advised about
25 developments pertaining to the spill since it

1 happened?

2 A Have I kept --

3 Q Advised.

4 A The only -- about the only -- I guess only
5 advice is what I have communicated with my
6 attorneys when they've contacted me, telling me
7 about stuff or asking me about something or
8 something like that. You know, no meetings or
9 nothing like that going on.

10 Like I said, I -- I read the EPA
11 earlier back in the year that said if you were
12 in the Clinch River, take a bath, don't eat the
13 fish. I think I picked that up out of the
14 newspaper.

15 Q So when it comes to the spill and the
16 cleanup efforts after the spill, have you kept
17 yourself updated about those developments?

18 A Yes, I've heard about them on the news and
19 stuff.

20 Q TV news?

21 A What?

22 Q From the TV?

23 A From the TV, uh-huh.

24 Q And from newspapers?

25 A From newspapers.

1 Q Okay. What have you heard or read about
2 the progress of the cleanup efforts at the
3 Kingston facility?

4 A Only what's been in the paper and been on
5 the local news.

6 Q Okay. Did you see -- you have seen the
7 trucks and trains and big pieces of machinery
8 working on the site?

9 A Yes.

10 Q Were you aware that, for a while,
11 helicopters were involved in the cleanup effort?

12 A I saw the helicopters through the air.

13 Q Have you seen the trucks that spray water
14 on the ash piles?

15 A Passing by going down Swan Pond Road to
16 Swan Pond Circle, I've seen those trucks water.

17 Q Can you gauge the progress of the cleanup
18 from the vantage point of your house looking
19 across the river towards the Kingston facility?

20 A No. I can't see that far to tell.

21 MR. BYRNE: Object to form.

22 BY MR. SHERK:

23 Q Have you talked to your friends on Swan
24 Pond Circle about their experiences since the
25 spill?

1 A Yes. I've heard what they had to say
2 about the ash that was around their place and
3 stuff.

4 Q What kind of things have they said?

5 A Well, they said the furniture on their
6 porches were covered in fly ash.

7 Q After the spill?

8 A After the spill.

9 Q Okay. Have they talked to you about
10 increased traffic of trucks?

11 A They've talked about the increase of the
12 traffic on the Swan Pond Circle when the road
13 was closed and the big trucks were bringing rock
14 around, going in there and everything. That's
15 all.

16 Q Rock from the quarry?

17 A From the quarry, yes.

18 Q Okay. What have you heard or read about
19 the health studies that have been done since the
20 spill?

21 A I've heard of some of them.

22 Q Anything in particular come to mind when
23 you think about the health studies that have
24 been done since the spill?

25 A I believe there was one that was on TV

1 that supposedly -- wasn't it Vanderbilt had
2 done?

3 Q The ORAU study with Vanderbilt?

4 A Yeah, that one was on the TV news once.

5 Q Do you remember what transpired out of
6 that news report?

7 A I believe they said that they couldn't --
8 they couldn't find anybody with health problems
9 related to their test.

10 Q Did that make you feel better?

11 A Not really.

12 Q Mr. Worley, were you aware that the
13 Tennessee Department of Health did a public
14 health assessment following the spill?

15 A Am I aware of --

16 Q Yes. Were you aware that the Tennessee
17 Department of Health did a public health
18 assessment following the spill at the Kingston
19 plant?

20 A No, I never heard of that.

21 Q Okay. Have you ever heard of the Agency
22 for Toxic Substance and Disease Registry, the
23 ATSDR?

24 A No.

25 (Marked Exhibit 18.)

1 BY MR. SHERK:

2 Q Mr. Worley, you've been handed a document
3 which is Exhibit 18. And I'll represent to you
4 that that is a summary or fact sheet regarding
5 the public health assessment that was done by
6 the Tennessee Department of Health in the ATSDR.

7 Do you see that document?

8 A Yes.

9 Q Have you ever seen this before?

10 A No.

11 Q Do you see on the very first page of
12 Exhibit 18, there's a subheading that says,
13 "What is a Public Health Assessment?"

14 Do you see that?

15 A Yes, I see that.

16 Q The first couple -- or few sentences read,

17 "A public health
18 assessment is a formal
19 government report. It is a
20 review of available information
21 about hazardous substances at a
22 site. It evaluates whether
23 exposure to chemicals might harm
24 people."

25 Did I read that correctly?

1 A Yes.

2 Q Does that trigger any memory for you about
3 having heard anything about this public health
4 assessment?

5 A No, it does not. I have not heard about
6 this particular assessment.

7 Q Okay. Do you -- are you familiar with the
8 Tennessee Department of Health?

9 A No.

10 Q That's not --

11 A I mean, I know it exists, but I've never
12 had any contact with it.

13 Q Do you have any opinion as to whether or
14 not it's a reputable organization?

15 MR. BYRNE: Object to form.

16 THE WITNESS: I have no opinion about
17 it.

18 BY MR. SHERK:

19 Q Okay. Let's turn to page 3 of Exhibit 18.
20 Let's just touch on a couple of the conclusions
21 that are summarized in this report on page 3,
22 okay? Let's look at the first sentence of
23 conclusion No. 3. It says,

24 "No harm to the
25 community's health is expected

1 from touching the coal ash."

2 Had you heard that that kind of
3 conclusion had been reached?

4 MR. BYRNE: Where are you reading?

5 THE WITNESS: What are you reading, 1
6 or --

7 BY MR. SHERK:

8 Q It's conclusion 3. I'm sorry, sir.

9 A No, I have not heard that.

10 Q Okay. How about the first sentence of
11 conclusion No. 8,

12 "No harm to people's
13 health should result from
14 recreational use of the Emory,
15 Clinch, and Tennessee Rivers
16 outside the area of the lower
17 Emory River down to the
18 confluence of the Emory and
19 Clinch Rivers, as specified in
20 the recreational advisory and
21 river closure."

22 Were you aware that conclusion had
23 been reached?

24 A No, but I don't believe it.

25 Q What's your basis for not believing that?

1 A What the EPA said.

2 Q This is the --

3 A If you swim in the Emory River, when you
4 get out, immediately bathe and don't eat the
5 fish.

6 Q Right. Does this give you any -- any
7 comfort that you can get in the rivers with no
8 problem?

9 A No. I would have to see something other
10 than what I read from EPA. I don't believe
11 this.

12 Q Has any scientist or expert advised you in
13 a way that is contrary to the conclusion reached
14 here in conclusion No. 8 that I just read?

15 A What was the EPA's -- when they released
16 the statement that if you swim -- if you get in
17 the water of Emory River, bathe after you get
18 out, don't eat the fish. Were they experts?

19 Q Well, if you look at the top of this page,
20 page 3, it says,

21 "What data sources did
22 TDH use?"

23 And it lists the different sources
24 of data about ash, surface water, public
25 drinking water, private well water, and so

1 forth. And then it lists the agencies that were
2 involved. And you can see that in almost every
3 area that was studied, the EPA was involved in
4 that, according to this summary.

5 A They were also involved in the statement
6 that they released earlier in the year, too.

7 MR. BYRNE: If it helps, just to
8 clarify, you know, there's an extended closure.
9 That might be where the disconnect is. Or at
10 least his property is located in the closure
11 area. That may be the source of the disconnect.

12 BY MR. SHERK:

13 Q Just a couple minutes ago, Mr. Worley, you
14 mentioned the ORAU screening study that had been
15 just completed. Do you remember that? You had
16 heard a little bit about that on the news, the
17 Vanderbilt study?

18 A Yeah. I heard about that on the news.

19 Q Okay. Did you receive any materials about
20 participating in this screening study that was
21 being offered by Vanderbilt?

22 A No. No.

23 Q No letter to invite you to participate in
24 that?

25 A No, none whatsoever.

1 Q Do you have any friends and neighbors that
2 participated in the screening study?

3 A Not to my knowledge.

4 Q Do you know anything about the substances
5 that this screening study was going to try to
6 monitor for?

7 A No.

8 Q Do you know what tests were given in the
9 Vanderbilt ORAU's screening study?

10 A No.

11 Q You just know the little bit about what
12 you heard on the news?

13 A On the news, what they said the results
14 were.

15 Q Okay. And I think you suggested earlier
16 that the results of the screening study were
17 that --

18 A That they did not find anybody that had
19 any -- anything in their body from the ash --
20 from the coal ash spill, I guess you would say,
21 or from the --

22 Q And your reaction, again, to that study
23 was to be skeptical?

24 A Well, not just completely accept it
25 because it's been a short time, that something

1 could show up later. Most of the chemicals,
2 like beryllium and asbestos, they show up in
3 your health years after you're exposed to them.

4 Q Do you wish that you had been involved in
5 the Vanderbilt ORAU screening study?

6 A Not particularly.

7 Q If you had been invited to participate in
8 it, would you have done so?

9 A Yes.

10 Q When you were growing up, how was your
11 health as a child?

12 A Okay. I had to have been okay to have
13 gotten into the Navy when I was 18 years old.

14 Q So you had no major illnesses as a child?

15 A No.

16 Q Asthma or bronchitis?

17 A No.

18 Q Cancer?

19 A No.

20 Q Whooping cough or pneumonia?

21 A No, I don't think I ever had whooping
22 cough. I know I never had pneumonia. Measles,
23 mumps.

24 Q How about broken bones as a child?

25 A No, not as a child.

1 Q Any hospitalizations as a child?

2 A No.

3 Q How would you characterize your health as
4 an adult?

5 A I think I'm in good health for a person my
6 age.

7 Q And you see your physician regularly?

8 A What?

9 Q You see your physician regularly?

10 A Yes, I do.

11 Q And how did you hurt your finger at work?

12 A This?

13 Q Index finger of your right hand.

14 A It was -- I was grinding a piece of
15 graphite on a grinding wheel, and it slipped and
16 my finger hit the grinding wheel and it ground
17 the nail off. That's why all that graphite's in
18 there.

19 Q Other than the hernia operation that you
20 just had, have you had any other
21 hospitalizations as an adult?

22 A I had surgery once on my nose. I had a
23 piece of cartilage that was loose in here, and
24 it was blocking this side of my nose to breathe,
25 and they had to take it out so I could breathe

1 through both nostrils.

2 Q Was that a local doctor that performed
3 that surgery?

4 A It was done in Oak Ridge Hospital by -- it
5 was some doctor with -- ear, nose and throat.

6 Q And that's it in terms of hospitalizations
7 as an adult, that and a hernia?

8 A That and a hernia. I went to the hospital
9 with heat stroke once, but that was just there
10 and back out.

11 Q Was that from mowing your lawn?

12 A What?

13 Q Mowing your lawn?

14 A No. I was cleaning up brush from a --
15 where the wind had broke a tree up. And it was
16 cloudy and hot, and I didn't realize it, and I
17 didn't drink enough fluids.

18 Q So other than your sinus surgery and your
19 hernia, that's all the surgeries you've had as
20 an adult?

21 A That's all the surgeries I've had.

22 Q Any hospitalizations as an adult besides
23 the hernia operation?

24 A Yes. I had diverticulitis once.

25 Q Did you take care of that?

1 A Yes, uh-huh.

2 Q That is something that doesn't go away

3 though; right?

4 A That's right. It don't.

5 Q You just manage it?

6 A Well, look, it -- it -- mine must have

7 been not bad enough because I eat anything I

8 want and never have had any problems since.

9 Q You're lucky.

10 A Yes.

11 Q Besides the injury to the finger of your

12 right hand, any other major injuries as an

13 adult?

14 A Yes.

15 Q What would that be?

16 A Lost my index finger on a table saw, but

17 that --

18 Q I thought I saw something like that.

19 A -- wasn't at work.

20 Q And that's a table saw at home?

21 A Uh-huh.

22 Q When did that happen?

23 A 1958.

24 Q That's the index finger of your left hand?

25 A Of my left hand.

1 Q As an adult, have you ever been treated
2 for bronchitis or other breathing problems?

3 A Huh-unh.

4 Q Okay. No cancer?

5 A No cancer -- oh, yes, had a skin cancer
6 right there back in the '70s.

7 Q A melanoma?

8 A No, it was -- when the dermatologist took
9 it off, he thought it was nothing, but it came
10 back that it was a cancerous growth.

11 Q Never reoccurred?

12 A Never reoccurred. And had others of those
13 things from, you know, you get from the sun and
14 stuff taken off and all.

15 Q How about any heart conditions or chest
16 pain as an adult?

17 A I never had any chest pains.

18 Q Okay. Other than diverticulitis, any
19 other stomach or gastrointestinal problems?

20 A No, just that.

21 Q Pneumonia, as an adult?

22 A No, never had pneumonia.

23 Q Any lung infections or diseases of the
24 lung?

25 A No.

1 Q Kidney or urinary tract problems?
2 A No.
3 Q Liver problems?
4 A No.
5 Q Hepatitis?
6 A No.
7 Q Scarlet fever?
8 A No.
9 Q Malaria?
10 A No.
11 Q Typhoid?
12 A No.
13 Q I believe you said you're currently taking
14 cholesterol medication?
15 A Right.
16 Q Any other medications that you're
17 currently taking?
18 A Vitamins, baby aspirin.
19 Q As an adult, besides your cholesterol
20 medication, have you ever been prescribed a
21 medication that you took for any period of time?
22 A No.
23 Q Okay. Have you ever been told by a doctor
24 to change your diet?
25 A No.

1 Q Have you ever been told you were
2 overweight and needed to lose weight by a
3 physician?

4 A I know I'm overweight. Don't have to tell
5 me.

6 Q But no doctor has suggested that to you?

7 A No doctor has told me that.

8 Q Do you drink alcohol?

9 A Very rarely.

10 Q Have you ever smoked?

11 A Yes.

12 Q Did you smoke in the military?

13 A Yes.

14 Q What were the years of your smoking,
15 approximately?

16 A 10, 12 years. My last cigarette was
17 June 22, 1963.

18 Q How do you remember that?

19 MR. BYRNE: Sounds like the year you
20 were married.

21 THE WITNESS: What?

22 MR. BYRNE: Sounds like the year you
23 were married.

24 BY MR. SHERK:

25 Q How do you remember that date?

1 A Well, that was important. I finally got
2 my head screwed on straight that cigarettes
3 would hurt you.

4 Q So you'd been smoking how long, for how
5 many years before that?

6 A Probably from when I was -- I was 16, 17
7 years old. I was 30 then. When I was in high
8 school.

9 Q So you started in high school and smoked
10 till you were about 30?

11 A Well, I quit once in the Navy and then
12 started back.

13 Q Okay. Did you see the Surgeon General's
14 report about the effects of smoking, or what --
15 what caused you to just get your head screwed on
16 straight in 1963?

17 A I just finally realized that they were
18 hurting me.

19 Q So you just quit like that?

20 A Just quit like that.

21 Q Okay. Mr. Worley, you're not claiming any
22 emotional distress because of this spill at the
23 Kingston plant, I understand.

24 A Yes.

25 Q Nor are you claiming any present physical

1 injuries as a consequence of the spill at the
2 Kingston plant; correct?

3 A Repeat it.

4 Q You're not claiming any present physical
5 injuries as a consequence of the spill at
6 Kingston plant?

7 A No.

8 Q And as I understand it, since the spill,
9 you have not visited the TVA facility?

10 A No. I pass by it going, like I told you,
11 over Swan Pond Road, going to the Vermillions
12 there.

13 Q That's as close as you got?

14 A That's as close as I got. Haven't been on
15 a TVA place since 2000, when I ended up at the
16 outage at Bull Run. That's the last time I have
17 been on TVA's facility.

18 Q Since the spill, have you contacted anyone
19 at TVA regarding any concerns you might have
20 regarding the spill?

21 A No.

22 Q Since the spill, had you contacted anybody
23 at EPA or the Tennessee Department of Health
24 regarding concerns you might have about the
25 spill?

1 A No.

2 Q Since the spill, have you contacted
3 anybody at TDEC regarding concerns that you
4 might have about the spill?

5 A Anybody at what?

6 Q At TDEC, Tennessee Department of
7 Environment and Conservation.

8 A No.

9 Q I believe you said you haven't attended
10 any protests about the spill or town hall
11 meetings or anything like that?

12 A No.

13 Q The neighbor who is to the north of you
14 with the chainlink fence, is that Mark smith?

15 A No. Mark Smith's on the other side.

16 Q He's got the little house?

17 A Little cabin.

18 Q Have you spoken to him about whether or
19 not he has any litigation arising out of the
20 spill?

21 A No. You very rarely ever see him there.
22 In fact, if you go there now, the grass is
23 almost head high on his property.

24 Q So he's not mowed it at all this year?

25 A I think it's been mowed one time this

1 year.

2 Q Is he there?

3 A I haven't seen him there in months and
4 months and months.

5 Q Okay. All right. I wonder if you could
6 give me a couple minutes and see if I have some
7 final questions. Some of my colleagues might
8 have some questions for you, but just let me
9 take a peek at my notes for just a few minutes.

10 (Off the record.)

11 BY MR. SHERK:

12 Q Mr. Worley, I've had a chance to check my
13 notes, and I just have a couple follow-up
14 questions.

15 The lady friend that you mentioned
16 earlier in your deposition, who you have gone to
17 dances with and so forth and so on, I can't
18 remember her name.

19 A What?

20 Q The lady friend.

21 A My lady friend?

22 Q Yeah.

23 A Is a lady I met a few months ago through a
24 mutual friend, so we've just been doing some
25 social activities together and stuff like that.

1 Q My understanding is she has not spent any
2 significant amount of time at your residence?

3 A No.

4 Q Now, in terms of what you can see from
5 your house, you indicated that it was too far to
6 see, you know, improvements or work being done
7 at the Kingston facility itself?

8 A From my house it is.

9 Q Okay. Have you noticed any improvements
10 or changes in the river in front of your house?

11 A No, not really, other than a lot of those
12 barriers, you know, that they had down in the
13 water and stuff like that has been removed
14 between where I live and going towards the plant
15 up there.

16 Q Has the dredging stopped between your
17 house -- the dredging of the river, have they
18 finished that up?

19 A Yes, I believe they have. I haven't seen
20 anything out up there in, you know -- I don't
21 know, a few weeks or something.

22 Q All right. I believe that's all that I've
23 got. We're going to switch places.

24 A What?

25 Q We're going to switch places so that --

1 EXAMINATION

2 BY MS. STENNES:

3 Q Mr. Worley, when you did smoke, how much
4 did you smoke?

5 A Less than a pack a day.

6 Q What did you smoke? Do you remember?

7 A Winston and Camels.

8 Q Okay. And I think you said you rarely
9 drink alcohol; is that right?

10 A Yes.

11 Q Was there ever a time in your life that
12 you'd say you drank alcohol more frequently?

13 A No, not more frequently.

14 Q As an adult, have you had any asthma?

15 A No.

16 Q Do you have seasonal allergies?

17 A Yes.

18 Q What are those? Can you describe them?

19 A I don't know what they are. It's just
20 something that makes me sneeze periodically.

21 Q Does it occur in one particular season?

22 A No, not particularly. I just have
23 something that I'm allergic to that will make me
24 sneeze. Sometimes it's in the house. In fact,
25 you know, I've sneezed over here in this

1 building.

2 Q So did I. Do you take anything for your
3 allergies?

4 A No.

5 Q Have you ever gone to a doctor for
6 allergies?

7 A Yes.

8 Q When was that?

9 A Years and years ago. And they just --
10 x-rays of my sinuses and stuff, and they said
11 they couldn't see anything in there that caused
12 it, that there was just something I was allergic
13 to, and started talking about all the tests and
14 shots and stuff to do it. And that sounded like
15 it was going to be more trouble than suffering
16 with it.

17 Q Do either of your daughters have seasonal
18 allergies?

19 A I don't think so. I don't know.

20 Q Either of your daughters have asthma?

21 A No.

22 Q Other than you, does anyone ever take your
23 boat out?

24 A My youngest daughter. She hasn't in a
25 couple of years now, '03, something like that.

1 Q And that would be your daughter Heather?

2 A Yes.

3 Q Ramona doesn't take your boat out?

4 A No. She hasn't been in the boat for
5 several years. She lost interest in the skiing
6 and stuff years ago.

7 Q Is the name of the surveillance program
8 that you went through the Exposed Worker
9 Program? Am I calling it the right thing?

10 A I'm trying to think of the exact title of
11 it. It was -- it's for contract workers that
12 worked for the Department of Energy, and it's
13 called -- it's a medical screening for them.

14 Q In that program, you did the follow-up
15 scans -- was that roughly 18 months after the
16 initial scan?

17 A The last one.

18 Q The last one?

19 A When I had the first one, and it came
20 back -- after they do it. It goes to Queens
21 College in New York, and they read that stuff.
22 Then they told me about having a nodule and
23 suggested that they do another one in, I believe
24 it was, six months.

25 Okay, they did one thing, and the

1 nodules were just like they were, small, smooth,
2 and not grown any. Then one year later than
3 that, they did it, and it was the same thing.
4 And they sent those results to my family doctor
5 and everything, you know. And he told me that
6 in his -- his medical profession, that there was
7 nothing to be worried about it, because if they
8 stay the same for 18 months, you know, they
9 hadn't grown, they're not rough, they're smooth,
10 that he wouldn't worry about them.

11 Q To your knowledge, as part of that DOE
12 program, is there any further surveillance that
13 you can participate in?

14 A I went back one time more and had that
15 same early physical with the -- with the group
16 over in Oak Ridge. I think they come from Fort
17 Sanders or one of the -- they're located on
18 Illinois Avenue there at the corner of the
19 turnpike and they're from one of the hospitals
20 in Knoxville.

21 And they did the same thing they did
22 the first time: The chest x-rays, the blood
23 work, the breathing, all that stuff.

24 Q Do you remember approximately when you did
25 the second physical?

1 A I believe I got the results of it in 2009.
2 I think they did it in 2008. I got the results
3 in 2009 when they sent all the paperwork back to
4 me and to my family doctor, and it showed the
5 results of your blood work and all that stuff.

6 Q Do you know if you're entitled to go for
7 any additional screenings as part of that DOE
8 program?

9 A No, I'm not entitled to it, unless they've
10 made some kind of exceptions.

11 Q I don't have any further questions. Thank
12 you.

13 E X A M I N A T I O N

14 BY MS. LOWE:

15 Q Mr. Worley, my name is Ashley Lowe, and I
16 represent GeoSyntec, which is another one of the
17 defendants in this case, and I've got a few
18 questions for you. I'll try not to skip
19 around -- or ask you any questions you've
20 already been asked, but I'm going to skip around
21 a little bit and ask you some follow-up
22 questions. Okay?

23 A Okay.

24 Q Do you know who GeoSyntec is?

25 A Not professionally. If you're listed with

1 the lawsuit with TVA, I assume that you have
2 connections with TVA in some manner.

3 Q Okay. Do you have any personal knowledge
4 about what GeoSyntec has or has not done?

5 A No, I do not.

6 Q Okay.

7 A What did you do?

8 Q Nothing.

9 MR. BYRNE: She's saying in relation
10 to the ash spill.

11 BY MS. LOWE:

12 Q In relation to the ash spill?

13 A What I was asking you is what profession
14 are you-all in? You're not all in burning coal
15 or making electricity, are you?

16 Q You don't have any idea what GeoSyntec --
17 if you look at the -- is there a name listed?
18 GeoSyntec Consultants, Inc., do you have any
19 idea what that company does?

20 A No. You'd have to tell me. What do you
21 do? Or is it not necessary for me to know?

22 Q I'm just asking what you know today.

23 MR. BYRNE: Do you know what
24 GeoSyntec does, one of the named consultants?

25 THE WITNESS: No, not what all they

1 do. I'm sure they consult about something.

2 BY MS. LOWE:

3 Q Do you know why they are a defendant in
4 your lawsuit?

5 A They have to be affiliated with TVA and
6 something in this ash spill.

7 Q But you don't have any specific knowledge
8 of how they might be affiliated with TVA?

9 A No, unless it's something about how the
10 ash was retained or how they stored it or
11 something like that.

12 Q When you were working at Y-12, did you
13 have a security clearance?

14 A Yes.

15 Q What clearance level were you while --

16 A Q.

17 Q -- you were at Y-12?

18 Did you have a Q clearance the whole
19 time you worked --

20 A The whole time --

21 Q -- at Y-12?

22 A -- I was there.

23 DEPOSITION OFFICER: I'm sorry,
24 there's overlap. I need to back up. What
25 clearance level were you while you were at Y-12?

1 I'm sorry, I didn't get it.

2 THE WITNESS: Q. It's called a Q.

3 DEPOSITION OFFICER: Thank you.

4 Sorry.

5 THE WITNESS: That was the
6 clearances that you could go anywhere in the
7 plant.

8 BY MS. LOWE:

9 Q And that was the clearance level that you
10 had the whole time --

11 A The whole time I was there.

12 Q The whole time you worked at Y-12?

13 A Yes, 35 and a half years.

14 Q And I believe you may have said this
15 before, and I did not hear your answer.

16 What union were you a member of?

17 A International Association of Machinists
18 and Aerospace Workers.

19 Q Are you still a member of that union?

20 A Yes.

21 Q Is that the only union that you have --
22 you were a member of from the time you worked --
23 started working at Y-12 to present?

24 A Yeah. That's the only union I belonged to
25 since I worked at Y-12.

1 Q As a current -- as a retired but current
2 member of the union, what activities do you
3 still do with the union?

4 A I'm the president at the local there.

5 Q Okay. What do you do as president of the
6 local?

7 A Well, I'm -- the officers of the local, we
8 take care of all the business part of the local.
9 The direct representation on the floor there is
10 done by our union stewards. They're elected by
11 the people they represent. The officers, like
12 the president, vice president, secretary and
13 treasurer and all those, we merely oversee the
14 financial operation running of the union.

15 Q How long have you been the president?

16 A I am on my 11th year, not all of it at the
17 same time now.

18 Q Okay. Have you held other offices within
19 the union since --

20 A Yes.

21 Q -- you retired?

22 A Since I retired? Vice president,
23 president since I retired is all I've held.

24 Q Did you hold offices within the union
25 prior to your retirement?

1 A Yes.

2 Q What other offices have you held within
3 the union?

4 A Treasurer and recording secretary. And on
5 the job out there, I was chief steward for the
6 machinists for nine years.

7 Q Do you currently -- or since your
8 retirement, have you done any negotiations out
9 at Y-12 or one of the Oak Ridge plants for union
10 members?

11 A Now, we, as a machinists union, are part
12 of a metal trades council out there, which is
13 made up of 16 different unions that negotiate
14 with Y-12 and X-10. And since I retired, I
15 took -- participated in one negotiation.

16 Q Was that actually out at the plant?

17 A Yes. We met out at the X-10 plant.

18 Q When did you do that?

19 A Maybe '96, or somewhere right in there.

20 Q Have you actually been out to Y-12 or any
21 of the other plants other than that one
22 negotiation since your retirement?

23 A No. I can't get in the Y-12 plant or
24 X-10, either one, now.

25 Q As an officer of the union, you did not

1 maintain any type of clearance that would allow
2 you access into Y-12; is that correct?

3 A No. Your clearance is with the
4 government, the Department of Energy.

5 Q Okay. Did the union provide any type of
6 medical screening for its members?

7 A No, not -- no, no. That -- now, that
8 medical screening that I was talking about, that
9 was passed through Congress and Senate, the
10 Atomic Trades and Labor Council, which is the --
11 the umbrella of all these international unions,
12 they are -- supervise over the medical
13 screening. They make all of the appointments
14 for you to go -- for the first part of the
15 physical, they make your appointment for you to
16 go through the scan and everything like that.

17 Q But your union doesn't provide any
18 separate --

19 A No.

20 Q -- or additional medical screening --

21 A No, they do not.

22 Q -- for its members?

23 A No, they do not.

24 Q You indicated earlier that you wore a
25 badge that they would monitor weekly when you

1 were working out at Y-12. Were you ever
2 informed that your badge indicated any radiation
3 exposure while you were out at Y-12?

4 A No, never was. The only people that, to
5 my knowledge, ever received anything about it
6 was somebody that had been exposed to something,
7 and they would pull them out of the area.

8 Q I believe you may have mentioned this just
9 a few minutes ago, but the screenings that you
10 were talking about where you received the chest
11 x-rays and the additional physicals after your
12 retirement from Y-12, did your family doctor get
13 copies of the medical records of those
14 screenings?

15 A Yes.

16 Q And his name is Dr. Bingham?

17 A Yeah Barry Bingham.

18 Q Other than Dr. Bingham, what doctors have
19 you seen in the last 10 years?

20 A In the last 10 years?

21 Q To the best of your recollection.

22 A Best of my recollection. Dr. Wrhea, that
23 does colonoscopies, I've seen him twice in the
24 last 10 years.

25 Q Do you know how to spell Wrhea?

1 A W-r-h-e-a. It starts with a "W," but he
2 pronounces it Wrhea.

3 Q Where is he located?

4 A Oak Ridge.

5 Q Okay.

6 A And just recently, I'm still under the
7 care of a surgeon, Dr. Tripp, my hernia surgery.

8 Q Where is he located?

9 A He's in Oak Ridge, surgical group.

10 Q Was your surgery done in Oak Ridge
11 Hospital?

12 A Oak Ridge Hospital.

13 Q Any other doctors in the last 10 years
14 that you can think of?

15 A No, I don't think -- when Dr. Bingham sent
16 me up there for a stress test, I don't think I
17 talked to any doctors up there at that heart
18 place.

19 Q Is that also in Oak Ridge?

20 A Yeah, it's in Oak Ridge. They just sent
21 everything back down to Dr. Bingham.

22 Q So he would have your records from the
23 stress?

24 A Yes, uh-huh.

25 Q What about your sinus surgery? Was that

1 within the last 10 years?

2 A Oh, that was in, I believe, the early
3 '80s.

4 Q Who was the ENT you saw for that?

5 A I don't remember the doctor. He was an
6 eye, ear, nose and throat -- it really wasn't
7 the sinus. It was to remove -- you know, you
8 don't have a bone in there, it's got a
9 cartilage. Well, a piece was loose at the end
10 of it right here, for some reason or another.
11 It was for years. And it kept closing up this
12 nostril, and it was getting -- you know, I was
13 getting scared that I wasn't going to be able to
14 breathe if I got a cold or something, except for
15 my mouth.

16 So I went up there to him and he put
17 me in the hospital and took it out.

18 Q You had mentioned earlier you're actively
19 involved in the Shriners?

20 A Yes.

21 Q And you've got your union activities?

22 A Uh-huh.

23 Q Are there any other clubs or organizations
24 that you're actively involved in?

25 A No. I belong to some other organizations,

1 but I'm not active in them.

2 Q When did you get your permit for your
3 dock?

4 A The first one I got was in late '60s. And
5 that dock got washed out by high water. And the
6 other one I got, I believe it was in the 1980s,
7 but I'm not sure. I have to just go dig the
8 dock permit out from my safety deposit box to
9 see.

10 Q So you have the dock permit kept in your
11 safety deposit box?

12 A I think that's where it's at.

13 Q And the dock that's currently there, you
14 think it was sometime approximately in the 1980s
15 that that dock was put in and permitted?

16 A Yes, uh-huh.

17 Q Do you have insurance on your house?

18 A Yes.

19 Q Do you know how much you have your house
20 insured for?

21 A No.

22 Q Have you made any claims on your
23 homeowners insurance for damage to your house at
24 any time since you built it in 2000?

25 A No.

1 Q Do you know anyone that works at the
2 Kingston facility?

3 A I know one pipefitter, Don Reese. All the
4 machinists that I knew that worked there are
5 retired now and gone. And the machinist there,
6 they have to belong to the local in Chattanooga.
7 They don't belong to our local anymore.

8 Q Have you talked to anyone who worked at
9 the Kingston facility about this spill?

10 A No.

11 Q At the time of the spill, was there anyone
12 who visited your house on a frequent basis,
13 other than your daughters?

14 A A lot of friends will stop by and
15 everything, but on a regular -- on just like a
16 regular basis, it would only have been one of my
17 daughters at that time.

18 Q Are there any of your friends that you're
19 aware of who saw the fly ash on your dock or out
20 in the river after the spill?

21 MR. BYRNE: Object to form.

22 THE WITNESS: I don't think so.

23 BY MS. LOWE:

24 Q Did you take any photographs of the fly
25 ash on your dock or on the river?

1 A No.

2 Q Did you take any videos of the fly ash on
3 the dock or in the river?

4 A No.

5 Q You saw earlier some tax appraisals that
6 have been done on your property by the county,
7 that they sent somebody up there and came up
8 with a number. Have you personally hired anyone
9 to do an appraisal of your property since the
10 time you built the house on the property?

11 A No. And they don't send anybody out
12 except for the first time it was appraised, and
13 I complained to them about it, and they started
14 telling me how many bathrooms I had. And they
15 had more than I actually got.

16 And I asked them how they came up
17 with their figure. I said, You ain't been down
18 to my house.

19 They said, No, we stood up on the
20 road and looked at it. And we know what you've
21 got in there without having to come in. So --

22 Q Have you ever appealed your property
23 assessment?

24 A No.

25 Q Now, it sounds like, at least at some

1 point, you talked to them about it a little bit?

2 A Yes. I did the first appraisal I got
3 after the house got finished.

4 Q When was that?

5 A It got finished in 2000, and they had
6 already had an appraisal. And the reason I was
7 talking to them about it when they did the
8 appraisal, I didn't have the basement finished,
9 and they had it listed as being finished. And
10 that's when they told me they just stood up the
11 road and looked at it, and we can tell exactly
12 what you've got and know what you've got there.
13 And we know how to appraise it.

14 Q So you talked to them about that?

15 A That, then.

16 Q Did they alter your appraisal at that
17 time?

18 A No. No.

19 Q But you didn't formally appeal it?

20 A No. And that's why I didn't go talk to
21 them about this one. You're wasting your time.
22 You can't win.

23 Q Mr. Worley, I believe those are all the
24 questions that I have for you. Thank you.

25 A You're welcome.

1 MR. BYRNE: Mr. Worley, I have just
2 a few questions for you. This really will be
3 short.

4 THE WITNESS: Okay.

5 E X A M I N A T I O N

6 BY MR. BYRNE:

7 Q Ms. Stennes talked to you a little about
8 the Exposed Workers Program and the medical
9 screening program.

10 Which did you participate in?

11 A The one that I participated in?

12 Q Yes, sir.

13 A It was a medical screening that comes
14 through the Department of Energy.

15 Q Right. But you didn't participate in a
16 program called the Exposed Workers Program, did
17 you? That was a different group of workers at
18 Y-12; am I right?

19 MR. SHERK: Object to form.

20 THE WITNESS: What?

21 MR. SHERK: Go ahead. You can
22 answer.

23 BY MR. BYRNE:

24 Q You need me to restate that?

25 A Well, I didn't know there was two

1 programs. The only program I know about is the
2 one that was called a medical screening for
3 workers, it's a DOE installation. When they
4 started out, only Paducah and K-25 was in it
5 because they were chemical plants.

6 Then they included X-10 and Y-12.

7 Q Okay.

8 A And all I know is they're run by Queens
9 College in New York, called a medical screening.

10 Q What I'm trying to figure out is were you
11 aware of some different program called the
12 Exposed Workers Program? Was that a different
13 program altogether, or did it include a
14 different class or category of workers?

15 A The only program I know about is the one
16 I'm telling you.

17 Q And that's the only one you participated
18 in?

19 A Yeah. It was a medical screening program,
20 and anybody that ever worked in a DOE facility
21 for a contractor whatsoever is entitled to it.

22 Q Okay. At the very beginning of your
23 deposition today, you were asked about responses
24 you may have given to written questions.

25 Do you remember that?

1 A Yes.

2 Q And I know you haven't drafted any written
3 answers to written questions, but you're aware,
4 are you not -- you are aware, are you not, that
5 your attorneys have submitted responses to
6 written questions on your behalf in this case?

7 A Yes. You know, you have talked with me on
8 the phone, and I've received letters from you
9 about stuff, called you, answered like that,
10 yes, like that. I'm aware of that.

11 Q Okay. And you're aware that we took the
12 information you gave us, either on the phone or
13 from documents you provided, and we put that in
14 writing as responses to written questions?

15 A Yes, uh-huh.

16 Q Okay. Do you recall the destroying or
17 throwing away of any documents related to this
18 case or your claims against TVA in this case?

19 A You mean some kind of written documents or
20 something?

21 Q Yes.

22 A No, I've never had any kind of written
23 documents. Everything that I have communicated
24 to you is just what I've observed and what's in
25 my memory.

1 Q Okay. But to the extent you obtain
2 anything relating to this case that's in writing
3 -- maybe it's a document, a piece of paper, or a
4 map -- you're aware, are you not, that you need
5 to retain that and not throw it away?

6 A Yes.

7 Q And you've known that since you've been
8 involved in this case?

9 A Yes.

10 MR. SHERK: Objection. Leading.

11 BY MR. BYRNE:

12 Q I think you indicated earlier that you are
13 not bringing a legal claim for emotional
14 distress in this case; correct?

15 A Right.

16 Q Okay. But you certainly experienced a lot
17 of upset, annoyance, inconvenience, stress
18 related to the ash spill; am I right?

19 MR. SHERK: Object to form.

20 You can answer.

21 THE WITNESS: Can I answer?

22 MR. SHERK: Yes.

23 THE WITNESS: Yes. It was annoying
24 and aggravating when you couldn't use the water
25 up through there. But -- and still it's

1 aggravating because of that. But not anything
2 emotional, I mean, that I'd have to go see a
3 head shrink or something like that about it, you
4 know. It's just aggravation.

5 BY MR. BYRNE:

6 Q I think that's all I've got. Thank you,
7 Mr. Worley.

8 MR. SHERK: Mr. Worley, thank you so
9 much. I appreciate your patience with us today,
10 and I enjoyed meeting with you.

11 THE WITNESS: Well, it's nice. I
12 enjoyed it, too. It was an experience. I never
13 did it before.

14 (Deposition session concluded at 3:11 P.M.)

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1 REPORTER'S CERTIFICATE

2 I certify that the witness in the
3 foregoing deposition, JAMES G. WORLEY, was by me
4 duly sworn to testify in the within-entitled
5 cause; that the said deposition was taken at the
6 time and place therein named; that the testimony
7 of said witness was reported by me, a Shorthand
8 Reporter and Notary Public of the State of
9 Tennessee authorized to administer oaths and
10 affirmations, and said testimony, pages 1
11 through 218 was thereafter transcribed into
12 typewriting.

13 I further certify that I am not of
14 counsel or attorney for either or any of the
15 parties to said deposition, nor in any way
16 interested in the outcome of the cause named in
17 said deposition.

18 IN WITNESS WHEREOF, I have hereunto
19 set my hand the 8th day of September, 2010.



25 Katherine Gale, CSR, LCR #420
My commission expires: 2/27/2012

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E R R A T A

I, JAMES G. WORLEY, having read the foregoing deposition, Pages 1 through 218, taken August 26, 2010, do hereby certify said testimony is a true and accurate transcript, with the following changes, if any:

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JAMES G. WORLEY

Notary Public

My commission expires: _____

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